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**United States
Department of Labor
Sixty-Ninth Annual Report
Fiscal Year 1981**

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United States Department of Labor Sixty-Ninth Annual Report Fiscal Year 1981



Raymond J. Donovan, Secretary of Labor

United States Department of Labor

Raymond J. Donovan¹	Secretary of Labor	Ian D. Lanoff	Administrator for Pension and Welfare Benefit Programs
Donald L. Rosenthal²	Chief of Staff and Counselor to the Secretary	Albert Angrisani⁹	Assistant Secretary for Employment and Training
Earl Cox³	Assistant to the Secretary for Public Affairs	Vacant	Deputy Assistant Secretary for Employment and Training
Vacant	Director, Office of Information, Publications and Reports	Vacant	Administrator, Office of Policy, Evaluation and Research
Vacant	Director, Women's Bureau	Vacant	Administrator, Office of Comprehensive Employment Development
Thomas F. McBride⁴	Inspector General	James P. Mitchell	Administrator, Bureau of Apprenticeship and Training
Vacant	Under Secretary	David O. Williams	Administrator, United States Employment Service
Vacant	Executive Assistant to the Under Secretary	William B. Lewis	Administrator, Unemployment Insurance Service
Gerald Lamboley	Chairman, Employees' Compensation Appeals Board	Vacant	Administrator, Office of Youth Programs
Samuel J. Smith	Chairman, Benefits Review Board	Roberts T. Jones	Administrator, Office of Management Assistance
Nahum Litt	Chief Administrative Law Judge	T. James Walker	Administrator, Office of Administration and Management
Donald E. Shasteen⁵	Deputy Under Secretary for Legislation and Intergovernmental Relations	Vacant	Director, Office of National Programs
Robert W. Searby⁶	Deputy Under Secretary for International Affairs	T. Timothy Ryan¹⁰	Solicitor
James F. Taylor	Associate Deputy Under Secretary for International Affairs	Vacant	Deputy Solicitor
Janet L. Norwood	Commissioner of Labor Statistics	Ronald Whiting	Deputy Solicitor (Regional Operations)
Vacant	Deputy Commissioner of Labor Statistics	Vacant	Assistant Secretary for Policy, Evaluation and Research
Vacant	Assistant Secretary for Veterans' Employment	Vacant	Deputy Assistant Secretary for Policy, Evaluation and Research
Donald L. Dotson⁷	Assistant Secretary for Labor Management Relations		
Ronald J. St. Cyr⁸	Deputy Assistant Secretary for Labor-Management Relations		

Alfred M. Zuck	Assistant Secretary for Administration and Management	Ralph M. Hartman	Director, Office of Workers' Compensation Programs
Robert L. Davis	Deputy Assistant Secretary for Administration and Management	William M. Otter¹³	Wage and Hour Administrator
Andre C. Whisenton	Librarian	Thorne G. Auchter¹⁴	Assistant Secretary for Occupational Safety and Health
Robert B. Collyer¹¹	Deputy Under Secretary for Employment Standards	Mark D. Cowan	Deputy Assistant Secretary for Occupational Safety and Health
Craig A. Berrington	Associate Deputy Under Secretary for Employment Standards	Vacant	Assistant Secretary for Mine Safety and Health
Ellen M. Shong¹²	Director, Office of Federal Contract Compliance Programs	Vacant	Deputy Assistant Secretary for Mine Safety and Health

¹Appointed 2/4/81 to replace Ray Marshall

²Appointed 9/11/81 to replace Paul Jensen

³Appointed 4/13/81

⁴Appointed 7/22/81 to replace Marjorie F. Knowles

⁵Appointed 2/12/81 to replace Nik B. Edes

⁶Appointed 5/11/81 to replace Dean Clowes

⁷Appointed 7/8/81 to replace William P. Hobgood

⁸Appointed 6/1/81 to replace Rocco C. DeMarco

⁹Appointed 3/16/81 to replace Ernest G. Green

¹⁰Appointed 3/12/81 to replace Carin A. Clauss

¹¹Appointed 4/28/81 to replace Donald Elisburg

¹²Appointed 6/5/81 to replace Weldon J. Rougeau

¹³Appointed 8/3/81

¹⁴Appointed 3/19/81 to replace Eula Bingham

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Report of the Secretary

If the Department of Labor's activities in fiscal year 1981 could be summed up in one word, that word would be "change."

With the coming of a new Administration in January of 1981, the Department began the long, difficult, and sometimes painful process of reevaluation and restructuring to render the greatest possible service to American workers while still achieving the required reductions in spending. This process of change touched every agency of the Department, resulting in a thorough review of all programs and the reduction, restructuring, or elimination of those that failed to meet the needs for which they had been established.

These changes were a vital part of the Administration's efforts to reduce overall government spending and regulation—two of the key elements in the Economic Recovery Program. Throughout these program changes, however, the goal of the Department has continued to be the fulfillment of its mandate to "foster, promote and develop the welfare of the wage earners of the United States."

Administration and Management

With the increased emphasis on improved efficiency and smaller budgets, the Office of the Assistant Secretary for Administration and Management (OASAM) played a major role in the Department's activities during the fiscal year. Much of this effort was directed toward the implementation of procedures to deal with the changes in personnel that would be brought about under the fiscal 1982 budget.

Within this area, the continued implementation of the Civil Service Reform Act (CSRA) was of major importance. In particular, progress was made in the development of a performance appraisal system. As required by the CSRA, all performance appraisal systems for employees were developed, where required, in cooperation with the employee unions. The employee unions were also consulted in setting regulations on adverse actions and actions based on unacceptable performance.

An Office of Civil Rights (OCR) was established in OASAM during the year, with responsibility for enforcing title VI of the Civil Rights Act of 1964 and similar non-discrimination statutes, regulations, and orders in programs receiving or benefiting from financial assistance from the Department. With the establishment of OCR, the Department centralized its enforcement efforts and expanded coverage to include not only Employment and

Training Administration (ETA) grant programs, but those administered by the Mine Safety and Health, Occupational Safety and Health, and Employment Standards Administrations as well.

A high priority was also placed on implementation of the Paperwork Reduction Act of 1980. The Assistant Secretary for Administration and Management was designated as the "senior official" of the Department, under the PRA, and in that capacity, was given primary responsibility for the management of information resources within the Department of Labor. As a result, an intense examination of all reporting and recordkeeping requirements was initiated.

Employment Standards

Much of the action in the Employment Standards Administration was in the area of regulatory reform.

As a part of the Department's efforts to implement the Economic Recovery program, the Employment Standards Administration took several actions designed to reduce the cost of compliance with Federal law, while retaining needed protection for workers.

The Administration proposed rule changes in the area of affirmative action to reduce the paperwork burden for employers, and thus the cost of compliance, while maintaining the necessary safeguards for protected groups. These proposed changes were published in the *Federal Register* on August 25, 1981, with the comment period ending after the close of the fiscal year. During that period, over 1,500 comments were received.

The volume of comments received in another area—industrial homework—was far greater. Following the publication of proposed changes in the rules prohibiting industrial homework in seven industries, the Department received over 10,000 responses. These responses were a major factor in the decision to lift the ban on industrial homework in only one area. This decision was made, and the final regulations published, on October 9, 1981, shortly after the close of fiscal 1981.

Significant changes were also proposed in the Davis-Bacon Act to alter the formula for determining the prevailing wage and for certain other calculations under the act. A far more realistic cost of construction projects under Federal auspices would result, as well as a savings to the taxpayer of several hundred million dollars.

In other areas, the Employment Standards Administration also made significant headway in eliminating the

backlog of Black Lung claims generated by the 1977 amendments to the act, and in reviewing questionable medical claims under the Federal Employees Compensation Act.

Finally, the Secretary announced that strike forces would once again be used in the Department's drive to prevent minimum wage and overtime violations, especially in the apparel industry. Strike force teams were therefore reestablished in New York, Los Angeles, Philadelphia, New Orleans, Denver, and San Francisco. Their 1,153 investigations resulted in agreements by employers to repay over \$2.5 million in wages to workers.

Worker Safety

Foremost among the Occupational Safety and Health Administration's (OSHA) efforts during the year was the development of a new inspection targeting strategy. Under this new strategy, OSHA will be able, for the first time, to direct its inspection efforts at those establishments with the highest rate of lost workdays.

During fiscal 1981, OSHA acted to certify six States and territories as having completed all the commitments contained in their State plans. This action brings the total number of certified State plans to 18. OSHA also relinquished dual jurisdiction in four States, freeing OSHA personnel for Federal compliance activities.

OSHA continued its efforts to revise and clarify industry safety standards. Through the increased use of performance-oriented standards, employers can more easily determine the requirements being placed upon them.

Safety was also a major concern in America's mines. The Mine Safety and Health Administration (MSHA) put new regulations into effect governing the availability of rescue equipment in underground mines. MSHA established a review committee to study all mine safety standards and to eliminate unnecessary and outdated regulations.

Employment and Training

During fiscal year 1981 the Employment and Training Administration (ETA) continued to focus its resources on involving the private sector in the training and employment of disadvantaged workers. This was the first full year of operation for the Private Sector Initiative Program, and a strong effort was made to find employment for 300,000 CETA public service employees as the Federal government ended the subsidization of public service jobs.

Legal Actions

The Office of the Solicitor and the Office of the Inspector General (OIG) continued work in several areas. The Special Litigation Staff of the Solicitor's Office pursued a resolution of the Teamster's Central States Pension Fund case, while the Office of the Inspector General was able to virtually eliminate a backlog of unresolved audits of ETA grants.

In addition, OIG continued to obtain significant indictments, convictions, and sentences in major organized crime and labor racketeering cases.

Women's Bureau

The Women's Bureau placed major emphasis on identifying at the State and local level and in the private sector existing resources that can be used to improve employment options and opportunities for women.

Specifically, the Bureau implemented the first stage of a national training program designed to increase women's access to apprenticeship training. The Bureau also worked to establish apprenticeship training for women held in State correctional facilities.

Finally, the Bureau continued its studies and technical assistance in the areas of child care, pay equity, alternative work patterns, and others.

Labor-Management Relations

Labor-management relations during the year focused increasingly on the need for greater cooperation between workers and managers in order to overcome serious productivity problems. This increased cooperation will also be a factor in dealing with changing patterns in technology and in the labor force.

Using a new Compliance Audit Program, the Labor-Management Services Administration significantly raised the number of union financial audits and embezzlement investigations conducted in 1981. Regulations were issued that reduced paperwork requirements under ERISA, while LMSA concentrated its enforcement resources on pension cases involving a considerable number of participants and large amounts of money.

Labor Statistics

The Bureau of Labor Statistics (BLS) continued its work on revisions in both the Consumer and Producer Price Indexes. During the fiscal year, BLS published five alternative measures of home ownership costs, including a rental substitute. Beginning in 1983, that rental equivalence will be used in the Consumer Price Index.

The Commissioner of Labor Statistics testified before several congressional committees on the effects of the CPI on Federal expenditures and has been appointed to the Cabinet Working Group dealing with that subject.

In the reporting of unemployment statistics, the Bureau announced improvements that include better calculation of the number of discouraged workers, of usual hours worked, and other characteristics.

Finally, the Bureau continued to expand its program of analysis and research in the area of productivity.

International Labor Affairs

This year marked a return of the United States to participation in the International Labor Organization after a withdrawal during the previous administration. During the year the United States initiated efforts to strengthen the evaluation of ILO technical programs to improve their effectiveness. These and other efforts were beginning to show progress by the end of the fiscal year.

Conclusion

A year ago, in the introduction to the 1980 Annual Report, my predecessor wrote, "We have every reason to be proud of what we have done. It has not been easy. We have not achieved perfection, but we have succeeded in establishing a system which has maintained the confidence of most of our citizens. In my view, this confidence is one of the most enduring strengths of the American system."

One year later, those words have even greater meaning. Our task has been not to build a system, but to preserve its essential protections while achieving much-needed and

long overdue reductions in the cost of those protections. Our task has not been to write regulations, but to improve those that exist, making them more beneficial to workers and to employers.

Again, it has not been easy, nor have we achieved perfection. But we *have* done what we set out to do. We have preserved the unequalled protections enjoyed by American workers while taking the necessary steps to rebuild the American economy; we have continued the Department's work to fulfill our mandate. As the 17th Secretary of Labor, I am proud of the work the Department has done, and proud, too, of my part in it.

A handwritten signature in black ink, reading "Raymond J. Donovan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Raymond J. Donovan

Employment and Training Administration

During the fiscal year, the Employment and Training Administration (ETA) continued to focus its resources on involving the private sector in training and finding jobs for disadvantaged workers. Fiscal 1981 was the first full year of actual operation for the Private Sector Initiative Program. A strong effort was made to obtain employment for more than 300,000 public service employment (PSE) workers who were phased out of their government-supported jobs by September 10, 1981. In addition, ETA continued to provide training and other employment-related services to groups experiencing particularly severe disadvantages in the labor market, including youth, veterans, older persons, women, migrant and seasonal farmworkers, and Indians and other native Americans.

Community Employment Programs

Community employment programs were provided by 477 State and local prime sponsor organizations that received funds under the several titles of CETA for employment and training services at the local level.

In fiscal 1981, an estimated 1.1 million persons participated in title II, A, B, and C programs administered by the prime sponsors at a cost of about \$2.2 billion. During the year, approximately 733,000 persons terminated from these programs. Of this number, 272,000 were placed in jobs and 222,000 returned to school or entered further training. Of the persons enrolled in the programs, 42 percent were enrolled in classroom training, 10 percent in on-the-job training, 35 percent in work experience, and 13 percent in other activities.

A total of 209,700 service years were provided in public service jobs at a cost of approximately \$2.2 billion. About 560,000 persons were employed in public service employment (PSE) jobs at some time during the year.

The major change in the CETA system in fiscal 1981 was the decision to phase out the PSE program. Some 307,000 individuals employed in PSE jobs were terminated by September 30, 1981.

As a result of the Department's reemployment effort, some 65 percent of all of the terminated PSE participants were either placed in permanent unsubsidized employment or moved into other training situations. Approximately 50 percent of the balance of the participants qualified for and received unemployment compensation.

Work on performance standards for programs funded under title II BC was completed and the standards were implemented at the start of fiscal 1981 on both an experimen-

tal and voluntary basis. The standards take into consideration local labor market conditions. Five measures for title II BC programs for which standards are developed are the following: (1) Entered Employment Rate; (2) Cost per Entered Employment; (3) Positive Termination Rate; (4) Cost per Positive Termination; and (5) Average Wage at Placement. Work is now proceeding on standards for the Private Sector Initiative Program where the same five measures will be used.

Additional administrative changes to relieve the paperwork burden on prime sponsors reduced some grant requirements and eliminated others. Information in the initial plan submitted for comment was also substantially reduced.

Private Sector Initiative Program

Data show a continued increase in Private Industry Council (PIC) involvement in programs for participants. Participant enrollment at the end of the third quarter of fiscal 1981 was 77,429, exceeding all of fiscal 1980's participant enrollment by 33 percent. The highest percentage of program expenditures was in classroom training (52.3 percent) for more than 46,000 participants. On-the-job training programs accounted for 22.4 percent of the expenditures with 24,000 participants. Approximately 23,000 participants were placed in unsubsidized employment with almost 95 percent of these placements in the private sector. Almost all program participants were disadvantaged, and many had additional employment handicaps such as being older workers, youth, offenders, and displaced homemakers.

The Private Sector Initiative Program (PSIP) has stimulated PIC's and prime sponsors to develop and implement local innovations or refinements to existing programs ranging from entrepreneurship, small-business internships, technical assistance to small businesses, and private sector involvement in school curriculum development to job creation through economic development. In addition to their ongoing efforts to increase business participation in the Targeted Jobs Tax Credit program, PIC's became heavily involved in the public service employment reemployment effort.

PIC's are provided flexibility through the use of employment generating services (EGS) and initiated many EGS projects during fiscal 1981. Major types of EGS activities included labor market information, marketing, economic development, cooperative ventures, and special

assistance in the transition of unemployed workers to unsubsidized employment.

Technical assistance guides on topics of importance to title VII programs were developed and disseminated to provide program guidance and support to PIC's and prime sponsors. Training sessions were conducted around the country to increase PIC and prime sponsor proficiency in working with the private sector on economic development and labor market information activities. The National Alliance of Business, the Human Resources Development Institute, and public interest groups continued their contributions to cultivate the public-private sector partnership.

Youth Programs

The programs provided under title IV of the Comprehensive Employment and Training Act (CETA) are specifically designed to address both the structural unemployment problems of 14- through 21-year-old youth—particularly disadvantaged youth—and to fill the immediate needs of youth who are unable to find jobs. These programs—The Youth Employment and Training Program (YETP), the Youth Community Conservation and Improvement Projects (YCCIP), the Summer Youth Employment Program (SYEP), the Youth Incentive Entitlement Pilot Project (YIEPP), and the Job Corps—offer a broad range of work experience and training services to make youth employable, including the encouragement to return to or continue in school. The majority of the youth who participate in these programs are 16- to 19-year-olds.

In fiscal 1981, as in other years since the inception of these programs in 1977, data reveal that enrollments ran well above planned levels. YETP, which provides work experience, counseling, and occupational career information, served 291,910 participants, 50.5 percent of whom were white, 35.2 percent black, and 10.4 percent Hispanic. Of those who left the program by the end of June, 76.9 percent terminated positively, with 26.8 percent returning to or continuing in school, and 19.1 percent entering unsubsidized employment. The remainder either went into advanced training or experienced other affirmative outcomes.

In YCCIP, a short term (12-month), highly labor-intensive community improvement program, mainly for high school dropouts, a total of 31,406 participated, of whom 49.9 percent were white, 32.2 percent black, and 14.1 percent Hispanic. By June, 23.3 percent of those who left the program had obtained unsubsidized employment; 30.2 percent went into advanced training or had other positive terminations, and 6.6 percent returned to school.

Approximately 800,000 youth participated in the Summer Youth Employment Program (SYEP). SYEP provides youth an opportunity to learn and earn during the summer months through work experience and vocational exploration.

The Consolidated Youth Employment Program (CYEP), begun as a demonstration project in fiscal year 1979, concluded on September 30, 1981. CYEP consolidated the planning, operations, and management of YETP, YCCIP, and SYEP into a single year-round process. More importantly, CYEP promoted the creation of an individualized assessment and service delivery system based on competency and responded to the multiyear employability development needs of disadvantaged youth.

Thirteen CETA prime sponsors participated in the demonstration, serving 18,736 youth. Preliminary findings reveal that (1) year-round planning should continue: it provides a sense of continuity to program administration as well as linking sequences of activities for youth; (2) employability development, whether for youth or for adults, is enhanced when it is individualized and when progress is documented in a manner reflective of community standards; (3) individual performance levels or benchmarks, which were developed in CYEP to record the acquisition of skill based on competency (thus forming the foundation of employability development planning), should be expanded to include adults as well as youth for whom it is difficult to find unsubsidized employment; (4) through benchmarks, validated by local employers, program activities and private employers can more specifically express labor market needs; (5) regular reassessment is an important status check for an individual's progress toward acquiring skills necessary for competitive employment; (6) a broad spectrum of services should be available for youth who are at different stages on their way to becoming employable.

Another demonstration project served 545 Indochinese refugee youth through various combinations of English as a Second Language (ESL) training and work experience or on-the-job training and work experience. The project was conducted by prime sponsors in seven locations with a high density of Indochinese refugee youth: Boston, Mass., Fairfax County, Va., Orange County, Calif., San Mateo County, Calif., Sacramento, Calif., St. Paul, Minn., and Seattle, Wash. This project will expire on December 31, 1981; early indications show that approximately 98 percent of the participants will either return to or enter school or be placed in jobs.

In fiscal 1981, the Youth Incentive Entitlement Pilot Projects (YIEPP) were phased out. This demonstration program began in 1978 and served over 80,000 economically disadvantaged youth, aged 16 to 19, residing in 17 selected communities across the Nation. Participating youth were guaranteed a part-time job at the minimum wage during the school year and a full-time job at the minimum wage over the summer, provided that they enrolled, or were already enrolled full time, in either a high school or GED program. To get and keep their jobs, participants also had to maintain satisfactory school and work attendance and adhere to work performance standards.

A major premise underlying YIEPP was that youth who are both in the labor market and in school were likely to have greater employment and earnings potential after leaving school than those who do not participate in these activities. The short-run goals of the program were to reduce the school dropout rate, increase the high school graduation rate, and provide work experience and income to eligible youth. The long-range goals were to improve the employability and productivity of participants and increase their earnings potential.

Early results show quite clearly that YIEPP had a considerable effect on the education and employment rates of disadvantaged youth, particularly those who had dropped out of school. School enrollment rates for the "hard-core" group, that is, those who were neither in school nor in the labor force prior to YIEPP participation, increased 70.7 percent. For youth who were working prior to YIEPP but were not in school, school enrollment was estimated to

have increased 127.9 percent. The rate of employment for all YIEPP participants rose 90.2 percent during the course of the program.

During fiscal 1981, Job Corps expanded its capacity to approximately 44,000 corpsmembers. The number of centers has been increased to 106.

Over 6,600 corpsmembers have now participated in the experimental education improvement effort initiated in 1979. New models linking small conservation centers by computer for purposes of testing, prescribing remediation, instructing, scheduling, and educational recordkeeping have been introduced. Models in tutorial peer instruction, learning disabilities, bilingual ESL, controlled classroom use of handheld calculators, and revision of the math and world-of-work program continue. Less successful programs have been replaced by those showing superior results.

A major effort in fiscal 1981 focused on improving the vocational training programs offered at Job Corps centers. Vocational teachers were trained to instruct in the culinary arts, driver education, and clerical courses. A revised vocational training handbook describes competency-based vocational education and contains a new format for instructors to record training achievements. Additional booklets deal with Job Corps Vocational Advisory Councils and methods to establish linkages with business and industry.

Job Corps center directors received management assistance training; procurement training was given to regional and center staff responsible for contract administration.

National Programs

In fiscal 1981, national programs continued to provide training and other employment-related services to severely disadvantaged groups in the labor market. Special programs, generally conducted by national organizations, provided services to Indians and other Native Americans, migrant and seasonal farmworkers, older persons, women, and other special target groups.

The Senior Community Service Employment Program provides grants to national organizations and State governments to develop part-time jobs in community work for economically disadvantaged persons aged 55 and older. In fiscal 1981, over 54,200 older persons were provided employment through the program with an appropriation of \$277.1 million.

The Native American Employment and Training Program provides grants to Indian tribes, other native American communities, and various organizations to support a wide variety of training and employment services. More specifically, the Office of Indian and Native American Programs designates grantees, allocates funds, processes grant documents, and monitors and provides technical assistance to grantees. These programs served about 50,000 persons in fiscal 1981; almost 17,500 persons received classroom training; 3,500 were placed in on-the-job training; 14,500 were in work experience positions; and 14,500 held public employment service jobs at a cost of over \$81 million.

The Migrant and Seasonal Farmworker Programs provide services ranging from job training to emergency relief to service for seasonal farmworkers. In fiscal 1981, these

programs allocated over \$80 million to 48 organizations and to six State and local governments. Grants were also awarded to other groups to conduct demonstration programs, to provide technical assistance, and to perform evaluations.

Services during the year included classroom training for 21,000, on-the-job training for 4,000, and work experience opportunities for 3,500. A total of almost 210,000 people received assistance such as nutritional services, health and medical care, and emergency help.

Contractors under Special National Programs and Activities in fiscal 1981 placed almost 30,000 individuals in unsubsidized private sector jobs at a cost of from \$600 to \$2,400 per placement. Almost all of these individuals were economically disadvantaged, most were minorities, and many were either women or handicapped. In addition, as a part of the Public Service Reemployment effort, these programs provided training or employment for about 4,000 Public Service Employment trainees in fiscal 1981.

National sponsors of programs for the handicapped served over 5,000 handicapped individuals in fiscal 1981, resulting in the placement of more than 3,300 in private sector jobs at an average cost per placement of less than \$600. All of these individuals were economically disadvantaged and over 35 percent were minorities and women. In addition to these employment and training efforts a range of conferences, seminars, publications, and other information, geared to improving employment of the handicapped in the private sector, were provided to over 2,000 employers and 1,500 handicapped individuals.

The Targeted Outreach Program, designed to provide private sector employment for minorities and women in apprenticeable trades, provided services to about 9,000 individuals in fiscal 1981. Of those placed, 42 percent were in apprenticeship positions; 86 percent of the total were minorities, and more than 30 percent were women. The average cost per placement was \$2,400.

Major Community-Based Organizations provided training and onsite assistance to over 1,500 local affiliates and almost 6,000 staff, in order to improve linkages to the State and local employment and training system. The capabilities of these affiliates were enhanced in order to use effectively over \$21,000,000 in employment and training resources for the primarily disadvantaged constituencies they serve.

Under the partnership program with the labor movement, over 23,000 private sector job opportunities were generated nationwide for the employment and training system—largely because of the efforts of the AFL-CIO's Human Resources Development Institute. In addition, approximately 670 CETA prime sponsors and Private Industry Councils (PIC's) were provided technical assistance to strengthen the development and conduct of training programs.

The program of Small Business Workshops conducted under CETA title III, Section 301(g), was designed to provide useful information to potential small business owners. Implementation began in fiscal 1981 with the development of an award winning series of three films and supporting booklets. The series of films is being aired on almost 200 stations of the Public Broadcasting System (PBS) nationwide. In addition, fiscal 1981 saw the development of a special training program entitled "Small Entrepreneurial Enterprise Centers" that will be delivered initially in a few

local communities under the sponsorship of banks, chambers of commerce, or PIC's.

The National Puerto Rican Forum sponsored the program for Persons of Limited English-Speaking ability. This program provides linguistically tailored classroom instruction, counseling, job development, and employment-related services to persons of limited English-speaking ability. In fiscal 1981, over 2,100 individuals were placed in unsubsidized jobs at approximately \$650 for each placement. All of these individuals were disadvantaged, 97 percent were minorities, and more than 40 percent were women.

Fiscal 1981 saw the conclusion of the Help through Industry Retraining and Employment (HIRE) I program with the employment of over 5,700 individuals. Through the course of this program almost 15,000 persons, primarily veterans (almost 70 percent), were employed in the private sector. Two-hundred and twenty-five corporations participated in the program by providing employment and training opportunities in the over 50 different occupations. The jobs ranged in salary from \$3.50 to \$21.00 per hour and the program experienced a retention rate of over 80 percent.

The National On-the-Job Training (NOJT) program provided over 13,000 training opportunities for skilled, well-paying private sector jobs in fiscal 1981. These training opportunities were made available mainly through national level unions and employer associations and included OJT programs in the construction industry, the automotive industry, the railroad industry, the machine tool building industry, and tool, die, and precision machining. Over 11,500 placements were made by these contractors at an average cost of less than \$1,700 per placement. Of those placed, 83 percent were disadvantaged, 35 percent were women, 42 percent were minorities and 17 percent veterans. Most of the jobs paid over \$5.00 per hour.

U.S. Employment Service

In fiscal 1981 the Employment Service's major emphasis was on assisting individuals terminated from CETA public service employment (PSE) to obtain jobs. Of the 113,955 PSE participants registered with the employment service, 47,547 (41.7 percent) entered unsubsidized employment.

A total of 398,997 certifications under the Targeted Jobs Tax Credit were issued by the State Employment Security Agencies (SESA's) to employers who had hired eligible workers, exceeding by 33 percent the Department's goal of 300,000 certifications in fiscal 1981. The Economic Recovery Tax Act of 1981 amended and extended the Targeted Jobs Tax Credit until January 1, 1983. The Departments of Labor and Treasury continue to have joint responsibility for administering and publicizing the program. At the State and local levels, the SESA's are responsible for managing the delivery system and issuing vouchers to eligible workers and certifications to employers who have hired eligible workers. Prior to amendment, the SESA's coordinated voucher activities carried out by several agencies.

To encourage more active private sector involvement in employment and training activities, the Job Service has been organizing, strengthening and maintaining Job Ser-

vice Employer Committees (JSEC's). A JSEC is a group of employer representatives formed to provide a link between the Job Service and the employer community. JSEC's recommend to local Job Service offices changes designed to improve Job Service performance. More than 22,000 employers are now members of 1,040 JSEC's throughout the United States. These employers give in excess of 150,000 volunteer hours of time each month to help the Job Service improve its delivery and service capability to applicants and employers while helping to reduce unemployment.

In addition to the areas of special emphasis, the Employment Service provided a high level of service to the general public during fiscal 1981. Nearly 13,855,000 individuals submitted applications at Employment Service offices, and 6,996,000 job openings were listed by employers. The Employment Service filled 4,990,000 of these job openings (71 percent).

The average wage of job openings received was \$4.46 per hour compared to \$4.13 per hour in fiscal 1980. The average wage of openings filled was \$4.41 per hour, 8 percent higher than the previous year.

Services to Veterans

The Veterans Employment Service (VES) monitors ETA's veterans' programs, primary among which are the services provided by Job Service offices and by State and local CETA programs to ensure that veterans receive priority.

The more than 2,500 local Job Service offices across the country provide veterans with priority in interviewing, counseling, aptitude testing, job development, and referral to job openings. All Job Service offices have assigned to their staffs at least one specially trained "local veterans' employment representative" (LVER) who works directly with veterans applying for assistance.

Federal field staff of the VES are responsible for monitoring and evaluating all services. There is at least one VES representative outstationed in every State and in all 10 Labor Department regional offices.

In fiscal 1981, the Department also had contractual agreements with several national organizations to provide information and assistance to hard-to-reach veterans. The organizations included the American G.I. Forum, Blinded Veterans Association, and the National Urban League.

The Disabled Veterans Outreach Program (DVOP) is staffed by disabled veterans who reach out to other disabled and Vietnam-era veterans and help them obtain the employment and training services they need. DVOP staff also are based at local Job Service offices.

Unemployment Insurance

Fiscal 1981 was a year of new and shifting program initiatives as well as a continuation of improvements in Unemployment Insurance Service (UIS) operations. Emphasis was placed on implementing policies in the prevention and detection of fraud, abuse, and waste. Specifically, the UI program focused on six major areas of consideration: program integrity, program quality, productivity of operations, financing and trust funds, program management, and the management and service delivery aspects of worker dislocation programs.

During fiscal 1981, 23 million initial claims were filed in the State Employment Security Agencies (SESA's). One hundred seventy million weeks of unemployment were claimed and \$14.9 billion was paid out in benefits to almost nine million recipients.

First payment promptness, the major indicator of program performance, continued as a high priority goal for UIS and the SESA's. Forty-five SESA's were able to pay at least 87 percent of their initial claims within 14 to 21 days, and 96 percent of first payments were made within 35 days of the week ending date of the first compensable week.

Major legislative changes were made to the extended benefit program. In addition to changing the way State trigger rates are computed, the national trigger was dropped. This means extended benefits were payable only on a State-by-State basis. Eligibility standards were tightened by requiring claimants to have a substantial labor force attachment and to broaden and intensify their efforts to find work.

Improving internal security in the SESA's continued as a major element in the drive to curb fraud and abuse. Regional office and SESA staff assessed the adequacy of internal security in all SESA's, using a review outline developed by UIS. As a condition for receiving additional administrative funding for internal security, SESA's were required to submit detailed plans for their internal security operations in fiscal year 1982.

In their efforts to curb fraud and abuse, SESA's detected \$185 million in overpayments—an amount equal to 1.1 percent of benefits paid. During the same time, SESA's recovered \$87 million in overpayments, or 56 percent of those overpayments subject to recovery. To control improper payments, UIS implemented a pilot random audit program in five SESA's. The audit program has been designed to produce valid rates of detectable overpayments or improper payments on a statewide basis and will serve as a management tool to identify problems and to take corrective action. It will be expanded to another 10 States next fiscal year.

To improve the accuracy of UI statistics and the validity of productivity measurements, the UI Service conducted workload validation studies in 36 States. The balance of the 53 SESA's will have their studies completed during the next fiscal year. These studies concentrated on those workload items which were known to have reporting problems.

The UIS implemented cost model restudies of tax operations in 18 States. The results of these studies will be used in the fiscal year 1983 budget allocation as updated productivity measurements.

Progress was made during the first part of the year with respect to solvency of the UIS trust fund. The Federal Unemployment Account had outstanding loans to 18 State unemployment funds totalling \$4.6 billion going into fiscal 1981. Thirteen states repaid \$567.2 million from State funds and/or reductions in credits against employers' Federal unemployment taxes. Massachusetts and Montana repaid their loans in November 1980. However, nine States had to borrow \$2.2 billion. Illinois, Michigan, Ohio, and Pennsylvania accounted for \$1.9 billion of the \$2.2 billion lent during the year. Kentucky was a first time borrower. During the last 6 months of the year, no advances were requested. Total outstanding loans at the close of fiscal 1981 increased to \$6.2 billion.

Under the Disaster Unemployment Assistance (DUA) program during 10 months of fiscal 1981, there were 13 major disasters declared in 8 different States, representing less than half the number of disasters declared in 1980. Some 947 individuals received DUA for a total of \$626,730. This represents only 6 percent of the number of DUA recipients and less than 2 percent of the dollars spent for DUA benefits in 1980, a considerable decrease.

Approximately 400,000 workers received first payments of trade readjustment allowances (TRA); approximately \$1.7 billion was paid. This dollar amount is in addition to any unemployment insurance payments these workers received.

Under the Redwood Employee Protection Program (REPP), \$42,727,353 has been paid to affected workers since the beginning of the program. As of August 15, 1981, 2,735 workers received \$24,630,675 in weekly payments and 1,161 workers received \$17,786,041 in severance payments. A total of 203 workers have received \$310,637 in job search allowances and/or relocation allowances.

The Continuous Wage and Benefit History (CWBH) project came under the director of the State-Federal CWBH policy committee as recommended by OMB to give the States more direct control of the CWBH system. The committee has recommended a new questionnaire, expansion of the number of participating States from 14 to 20 to achieve national representation, and development of a set of performance criteria to be implemented during fiscal 1982.

Work Incentive (WIN) Program

The Work Incentive (WIN) program continued its efforts during fiscal 1981 to assist the transition of individuals and their families from welfare to jobs and economic independence. At the end of the fiscal year, a little more than 1.5 million persons receiving or applying for Aid to Families with Dependent Children (AFDC) were registered with the WIN program. Nearly three-fourths of them were women; slightly more than half were minorities, and 55 percent lacked a high school diploma.

Job entries rose by 12 percent over fiscal 1980 as more than 300,000 WIN registrants entered unsubsidized employment. Half of them earned enough at job entry to leave the AFDC rolls immediately. The others continued, at least temporarily, to receive some assistance, but at a reduced level.

State Welfare agencies reported annualized welfare grant reductions of approximately \$760 million, more than double the \$366 million it cost to operate the program, as a result of WIN registrants' employment. Approximately 70 percent of program expenditures was used to provide employment and training services, the remaining 30 percent funded employment-related social services.

The newly employed workers were paid an average starting wage of \$4.17 an hour. Unemployed parents, most of them unemployed fathers, who accounted for 22 percent of WIN job entrants in fiscal 1981, averaged \$5.17 an hour, and one-fourth of them were paid \$6 or more an hour when they started work.

As part of the function of providing employment, training, and social services to registrants, WIN staff appraised over 800,000 individuals to determine their needs for assistance and their employment potential. More than

270,000 registrants were provided with training or temporary subsidized employment, with 28 percent of them in programs funded through other than WIN resources. Social services included assistance with child care arrangements for over 65,000 registrants.

A major WIN emphasis in fiscal 1981 was expansion of the intensive employability services (IES) component, especially the IES group job-seeking (IES/GSJ) activity, designed to speed the transition of WIN registrants from welfare to work. Both IES and IES/GJS assist basically job-ready individuals to acquire the skills required to find and keep a job. In fiscal 1981, more than 135,000 registrants participated in IES, and another 57,000 were aided in their job search efforts through IES/GJS activity.

Legislative Changes

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) made changes in basic AFDC eligibility and WIN exemption criteria, and established three optional work experience programs—the Community Work Experience Program (CWEP), the Work Supplementation Program (WSP), and the Work Incentive Demonstration Program.

States may establish CWEP's—a supplement to WIN—to provide work and training for persons unable to find unsubsidized employment. Persons required to participate are all current WIN registrants and parents or relatives caring for a child 3 to 6 years old if child care is available.

Under WSP, States may use AFDC funds to provide or subsidize jobs for recipients as an alternative to receiving an AFDC grant. Acceptance of supplemented jobs would be voluntary, and recipients choosing not to participate would be subject to regular AFDC work requirements.

Work Incentive Demonstration Programs will be funded for a period of 3 years and will be administered solely by the title IV A agency as an alternative to WIN in States electing to participate.

Apprenticeship

Apprenticeship made some important advances in fiscal 1981. Minority participation increased to 18.4 percent of all apprentices, up from 17.1 percent at the end of fiscal 1980. Concerted efforts to interest women in careers in the skilled trades resulted in an increase in female participation to 5.7 percent of all apprentices. Five years ago, women constituted but 2.2 percent of the apprentice population. Apprenticeship in the uniformed military services had a big year, increasing to over 24,000. Almost 3,700 new apprenticeship programs were registered, 13 of which were with Federal agencies, and another 13 with international unions and large interstate employers such as public transportation and energy transmission companies. Six new occupations were approved as apprenticeable.

During fiscal 1981 over 400,000 apprentices received training. The number of apprentices in training as of the end of the year declined to just under 316,000, reflecting overall business conditions. There were more than 20,000 fewer apprentices in the construction industry at the end of the year than at the beginning. Major declines also occurred in the number of apprentices in the manufacturing and public administration sectors.

Important changes in emphasis also occurred during the year. CETA cutbacks required the termination of most New Initiatives in Apprenticeship activities, including the successful school to work apprenticeship program and the development and promotion contracts with employer associations and international unions. Preapprenticeship and apprentice outreach activities of the State employment security agencies and CETA-funded nonprofit and governmental units were cut back or eliminated. On the other hand, BAT's quality in apprenticeship program continually reviews and rates the performance of the more than 50,000 apprenticeship programs in teaching apprentices the manipulative skills and the theoretical principles required in their trades. The quality program thus directly addresses value of apprenticeship to the worker, the employer, and the country as a whole.

Another activity begun during the year was an examination of the factors constituting "apprenticeability" and occupations currently considered "apprenticeable" in programs registered by the Bureau of Apprenticeship Training (BAT) and the States' apprenticeship agencies (SAC's). BAT has solicited the input of the Federal Committee on Apprenticeship, the SAC's, and other interested parties in its review.

Policy, Evaluation and Research

The Office of Policy, Evaluation and Research focused on policy issues and options in defining the dimensions and scope of the employment and training system for the 1980's, and addressed other significant policy issues, including program performance measures, block grant funding, optional funding levels and formulas, immigration policy, enterprise zones, and key OMB and Congressional budget issues. Major legislative attention was directed to extension of the Older Americans Act, youth employment and training programs, extension and revision of the Targeted Jobs Tax Credit for employers, and passage of the Trade Act and Unemployment Insurance Amendments contained in the Omnibus Reconciliation Act of 1981.

Research efforts concentrated on policy issues to strengthen local employment and training programs, local economic development linkages, mandatory work experience, work adjustment assistance, and illegal aliens' use of unemployment insurance, and their tax payment patterns.

Research to improve direct, short-term programs included a variety of experimental and demonstration projects and studies of on-going programs. Preliminary results were reported this past year from the Youth Incentive Entitlement Pilot Projects to encourage disadvantaged youth to graduate from high school by offering them guaranteed summer jobs and part-time school-year jobs as long as they stay in school. Preliminary results were also reported for demonstrations of job search clubs for participants in CETA, the Work Incentive Program (WIN), and the Employment Service (ES).

In fiscal 1981, the first of several schedule Demonstration Offices was opened to conduct ES-related research and experimental projects. An ES-related study examined 20 local ES offices that had high rates of placing veterans in an effort to improve veterans services throughout the system. Another ES project involved the preparation of a

technical assistance guide for choosing for local offices sites most convenient to the client groups being served.

Research that concentrated on improving the employability of the economically disadvantaged included WIN demonstration models to return teenaged AFDC mothers to school and training; quality electronics job training for AFDC clients; and a survey of exemplary CETA training proven to be most effective in training and placing economically disadvantaged groups and minorities.

Evaluation activities during the year (a) developed the first estimates of CETA effects on improving postprogram earnings of participants; (b) evaluated efforts to increase private sector involvement in the training and employment for disadvantaged workers; and (c) assessed effects of the 1978 revisions in CETA.

The first estimates of CETA impact on participant earnings found that fiscal 1976 participants did gain more in earnings, about 7 percent, in the first year after leaving the program than a comparable group of nonparticipants. Considerable variation occurred because of preprogram earnings and by type of program participation. Thus, participants who had a history of limited preprogram earnings gained substantially, more than 20 percent, over their comparison group. In contrast, those who had relatively high earnings before CETA did not register a gain over their counterparts. Women achieved large net gains, while those for men were slight.

Among the four major types of program activities surveyed, training programs were found to have had larger effects on postprogram earnings than the subsidized employment programs. The largest were for those in classroom training, with a smaller impact generated by public service employment, and no impact for those in work experience programs.

Evaluations of the private sector initiatives program found that the development of closer CETA-business ties is a gradual process, that it generates differing emphases in differing localities, and that it is heavily dependent on local factors and leadership.

A related study of the Targeted Jobs Tax Credit, enacted to induce employers to hire from specified groups with high unemployment, found that its design and administration had produced less use by employers than had been expected.

Late in fiscal 1981, Congress extended this tax credit for an additional year, with modifications to meet some of the problems pointed up by the evaluation.

Studies of the effects of the 1978 amendments of CETA found that the amendments did largely achieve their objectives. Most notably, CETA managers became more sensitive to the need to tighten administrative controls to prevent fraud and abuse, but this added to administrative strains on the program. The CETA amendments also achieved a sharp shift in targeting of Public Service Employment to a more disadvantaged clientele by tightening eligibility requirements and limiting wage levels, but these changes reduced skill levels of the PSE jobs and led local governments to regard the program as less useful for their objective of providing public services.

During fiscal 1981, the Labor Market Information (LMI) program provided support to ETA objectives of achieving more effective local planning, increasing Job

Service job placements, and revising the alien labor certification process.

An LMI Training Institute was launched to train CETA and PIC planners, Job Service staff, local labor market analysts, private employers, and others on the production, interpretation, and use of LMI. Training and user symposia were provided to more than 1,750 persons during the year.

Cooperative projects were undertaken with international employment and training agencies of Israel and Mexico. Through representation in the Organization for Economic Cooperation and Development (OECD), ETA representatives participated in comparative analyses of public employment service activities, youth programs, work sharing, and other labor market measures, as well as in preparation of policy and analytic documents for the 1982 OECD meeting of labor ministers on employment policy.

In the emergency preparedness area, the Civil Emergency Preparedness Manual was updated, and in cooperation with the Department of Defense, labor market information sources were developed to assist in military recruitment and the transfer of military discharges into the civilian labor force.

Management Assistance

Fiscal year 1981 was the first full year of operation for ETA's new system for providing Management Assistance and Training (MAT) to CETA prime sponsors and other grantee agencies in the employment and training system. Congressional hearings on the reauthorization of CETA gave the first impetus for ETA to increase the volume and improve the delivery of technical assistance and training to ETA grantees. Subsequently, a committee was established composed of prime sponsors, Job Service staff, staff from ETA's National and regional offices, and those non-Federal organizations that are essential parts of the employment and training community. The report of this committee, "Review of ETA's Technical Assistance and Training (TAT) System," confirmed that ETA had not met prime sponsors' needs for technical assistance in quantity or quality. These findings were also confirmed by a study conducted by the House Committee on Appropriations.

ETA's first step, following the identification of the problems in the delivery of TAT, was to establish at the national level the Office of Management Assistance (OMA) as mandated by the CETA reauthorization. This office, organized in December 1979, was followed by the establishment of regional Management Assistance Staff (MAS) units. These offices were established for the planning and delivery of TAT.

The underlying principle of the new MAT system is that the employment and training community must develop its own MAT expertise and establish a cooperative system for its use. Overall goals for the system are the following:

- Upgrade professionalism and reduce staff turnover in the ETA system.
- Reduce program management deficiencies through creation of a network of management assistance

resources in each ETA region that will provide timely, effective management assistance based on requests or identified needs.

- Establish a needs identification process that quickly pinpoints program operator needs indicated by program assessments, audits, complaints, investigations, and other sources.
- Localize the delivery of MAT so that it can be more cost efficient and tailored to specific State and local needs.
- Assure program operator acceptance (user-ownership) by having users actively involved in planning and developing the system and participating in the delivery of both management assistance and training.
- Build a cost-sharing system capable of meeting the large unmet MAT needs with the relatively small appropriation of TAT funds.
- Assure that all resources delivering TAT are incorporated into the comprehensive MAT plan.
- Track and evaluate all management assistance and training to ensure constant improvement and the realization of the overall goal of program management improvement.

Major accomplishments during fiscal 1981 include the following:

- Development of 19 training courses, with an additional 6 under development.
- Establishment of two labor market information centers.
- Establishment of statewide delivery systems for MAT in 15 States.
- Establishment of resource inventories in seven ETA regions.
- Planning and development of a Management Information System (MIS) for MAT activities, expected to be operational in January 1982.
- Long Range Planning (5-year plan) to assure cohesiveness and consistency in the delivery of MAT services from year to year.

- Establishment of 7 new State training institutes, bringing the total number of State institutes to 15.
- Development of a system for MAT fund accounting.

Special Review

In fiscal 1981, ETA emphasized reducing fraud and mismanagement within employment and training programs. The Special Review Staff (SRS) conducted in-depth monitoring reviews of 15 prime sponsors. Fifty reviews had been planned during fiscal 1981 and each year thereafter. However, because of severely restricted travel funds only 15 reviews were completed. In the reviews a monitoring procedure was implemented that samples the three major activities that have the greatest potential for fraud and program abuse—financial and administrative management, program management, and equal opportunity.

The processing of complaints has become an ever-increasing area of importance in the administration of ETA programs. Recorded complaints at the Federal level that averaged 250 per year during the 1974-77 period increased to 660 during fiscal 1981. The proportion of complaints involving equal opportunity (EO) problems has dipped in recent years. While EO problems accounted for the majority of complaints in earlier years, they declined to 40 percent of all complaints in fiscal 1978 and to 30 percent in fiscal years 1979 through 1981.

The 1978 CETA amendments established fixed time periods for resolution of all complaints—60 days at the local level and 120 days at the Federal level. A system for measuring compliance with the mandated time periods has been developed and is in place throughout ETA. The latest effort to assess the current level of compliance indicated that the average age of open or nonresolved complaints had dropped from 8.5 months at the end of fiscal 1978 to 5.5 months in fiscal 1979 to 4.2 months in fiscal 1980 and to 3 months in fiscal 1981.

Bureau of Labor Statistics

In response to widespread concern over the measurement of homeownership costs in the Consumer Price Index, the Bureau of Labor Statistics published five alternative experimental measures of homeownership costs, including a rent substitute. The Bureau plans to introduce a rental equivalence measure in January 1983.

Commissioner of Labor Statistics Janet L. Norwood testified before several congressional committees examining the effect of the Consumer Price Index on Federal expenditures and was appointed to the Cabinet Working Group on Cost of Living Adjustments and Federal Programs.

Revision of the Producer Price Index continued, though at a slower pace than planned because of staff attrition and hiring freezes. The Bureau received and is evaluating a report from an Expert Committee on Family Budgets.

The Bureau assisted the Secretary in analyzing the recommendations of the National Commission on Employment and Unemployment Statistics and in preparing a report to the Congress. The changes announced by the Secretary included improved measures of discouraged workers, of usual hours worked, of school enrollment status, and of other characteristics of the employed and unemployed. The Secretary also endorsed the Bureau's plans for a multiyear revision of the establishment survey of employment, hours, and earnings.

The Office of Management and Budget designated the Employment Cost Index as a principal Federal economic indicator, reflecting the importance of the series in analyzing the Nation's economy. The Office of Personnel Management again requested and BLS collected information on paid leave in the private sector and on the detailed characteristics of private employee benefits plans, major elements in the Federal Pay Reform proposals before the Congress.

The Bureau continued to expand its program of productivity analysis and research. It extended the analysis of factors contributing to the productivity slowdown, including the impact of capital formation, energy price measures, and changes in the composition of the labor force.

The staff developed a new generation of computer-developed charts for use in briefing the White House staff. Work continued on the development of a Management Information System for the Bureau.

The new Administration's economic plans for fiscal years 1982 and 1983 required rethinking Bureau program

priorities and redoing the fiscal 1982 budget submission to Congress. President Reagan ordered a 12 percent reduction across the board, or a reduction from the \$123.4 million requested earlier for fiscal 1982 to \$108 million. The BLS request includes plans to revise the Current Employment Survey of establishments, redesign the Current Population Survey, and develop the rental equivalence test for the Consumer Price Index (CPI) X1 measure.

Prices and Living Conditions

Major activities of the prices and living conditions program during fiscal year 1981 were as follows:

The office released all major economic indicators according to the preannounced schedules and in accordance with release procedures established by the Office of Management and Budget. Through the first 6 months of fiscal 1981, the staff distributed over 1.5 million copies of printed materials in response to more than 500,000 recorded requests for data. These figures exclude an extremely heavy correspondence and analysis workload in response to written and telephone requests from the Congress, policymaking agencies in the Executive Branch, labor unions, business, the public, etc. Such requests total in the thousands; the vast majority are handled on a timely basis.

In response to widespread concern over the measurement of homeownership costs in the CPI, BLS continued monthly publication of five alternative experimental measures of homeownership costs. The measures are based on work conducted during the course of the CPI Revision and on information already being collected for the current CPI program.

Publication of average prices for food and fuel items continued in 1981. Item samples for gasoline were reselected in order to represent better the current mix of products.

The staff completed the second phase of an ongoing program to update the CPI outlet sample in one-fifth of the CPI pricing areas each year.

The revision of the Producer Price Index (PPI) is continuing, although at a slower rate than originally planned because of staff attrition and the hiring freeze. Revised indexes for 98 industries and their products are now being published. They represent 28 percent of mining and manufacturing production; 110 other industries are in various stages of development with indexes for 21 additional industries scheduled for publication in January 1982.

BLS recently received the report of the Expert Committee on Family Budgets, which was established to identify either the standards or the methodologies required to revise the current program. BLS has discussed the report and received the advice of its Labor and Business Research Advisory Committees. The BLS is continuing its evaluation of the program in light of the current budget environment.

In the International Price Program (IPP), the staff produced price indexes that cover 65 percent of the value of products exported from the U.S. and 65 percent of the value of products imported into the U.S. Indexes covering an additional 12 percent of exports and 8 percent of the value of imports are in various stages of development scheduled for completion by the end of fiscal 1982. Indexes were published that compare U.S. price trends of 64 export products with the price trends of competitive products exported from Germany and Japan.

The staff completed the first year of data collection for the Consumer Expenditure Survey. Development of a computer system to support editing and tabulation of these data for publication is under way.

Employment Structure and Trends

The Office gave major attention to conducting the preliminary work for a multiyear revision of the establishment survey of employment, hours, and earnings. A test of a centralized computer processing system for production of State estimates was begun. Also, the staff conducted two one-time surveys to provide information on the perception of employers towards the design of various forms and the availability of certain data items in establishment payroll record systems.

The staff expanded the State and area component of the industry payroll survey during fiscal 1981 to provide current monthly data for nine additional Standard Metropolitan Statistical Areas (SMSA's) and for the Commonwealth of Puerto Rico and four areas in Puerto Rico.

As required by the Comprehensive Employment and Training Act (CETA), the Office calculated wage indexes derived from quarterly reports on insured employment and wages for over 3,000 counties and 450 prime sponsors for use in determining the maximum allowable wage for public service employees involved in CETA programs. Also, the staff used these data to construct a wage index for determining hospital cost reimbursements for Medicare patients. They completed initiation of validation of State procedures and processing with regard to the preparation of the ES-202 Report (Quarterly Report on Covered Employment and Wages).

In 1981, the Bureau developed national estimates of occupational employment by industry, for nonmanufacturing industries, for about 1,500 occupations. The Occupational Employment Statistics survey is conducted on a 3-year cycle, with approximately one-third of the economy surveyed each year.

The staff completed a computer system providing for production of a major publication of State and area annual demographic employment and unemployment data several months earlier than in previous years. Also, improvements in unemployment insurance claims data—a major input to the local area unemployment estimates—were made through implementation of the

commuter claimant portion of the nonresident claims data exchange system.

Current Employment Analysis

The Office concentrated much of its effort in two areas—assisting in the Secretary of Labor's response to the National Commission on Employment and Unemployment Statistics (NCEUS) recommendations and making changes in the Current Population Survey (CPS) program related to the 1980 census. The legislation establishing the NCEUS charged the Secretary of Labor with submitting a final report to Congress detailing the actions taken with respect to the Commissioner's recommendations. The Bureau provided the technical expertise and assistance required for the preparation of the Secretary's report, which was submitted to Congress in the fall.

Phases II and III of the Methods Development Survey, a special research panel conducted by the Bureau of the Census, tested many key Commission recommendations relating to the Nation's monthly labor force survey (the Current Population Survey, CPS). A prototype labor force questionnaire, incorporating many of the Commission's recommendations for new and/or revised questions, was developed. The revised document will be tested in fiscal 1982 and will replace the present questionnaire in January 1983. New questions include those designed to identify and more objectively measure discouraged workers and to identify usual as well as actual hours worked by the employed. Questions were also designed to collect monthly data on the school enrollment status of persons 16 to 34 years of age and to sharpen several items relating to characteristics of the employed and the unemployed. In response to another of the Commission's recommendations, the staff prepared a report relating employment problems to economic status.

The staff produced new CPS table specifications as a result of changes in the 1980 census (such as the use of new occupational categories) and as a response to changing demand for data for different labor force groups (such as blacks and Hispanics). Also, work was begun on adjusting CPS data to the 1980 population count introduced with the release of data for January 1982.

The Bureau of Labor Statistics continued to meet the labor force data needs of persons in the press, business, academia, Congress, and government agencies. Analyses issued included the regular monthly summaries of employment and unemployment, as well as the special semiannual and annual reporting, plus quarterly reports on weekly earnings, women in the labor force, and minorities. Special research projects resulted in articles on youth employment, employment patterns in recessions, occupational segregation, occupational gains among blacks, sex/earnings differentials, regional earnings and regional unemployment, and employment in the service and agricultural sectors of the economy, among others. Also, a data book on working women was published, and extensive work was done on two other data books—one providing historical data on hundreds of labor force series and the other on CPS "gross flows" data. These are scheduled for completion in fiscal 1982.

Wages and Industrial Relations

In October 1980, the Office of Management and Budget

designated The Employment Cost Index (ECI) as a "Principal Federal Economic Indicator" whose release date is monitored and published in the *Statistical Reporter*. During the year, work was completed on collecting and processing State and local government data which were published for the September quarter. At the same time, the staff introduced a new estimation system allowing estimates of indexes as well as quarter-to-quarter change. Finally, a method of regularly and systematically maintaining the survey establishment sample was developed and put into place during the year.

The Office delivered the annual survey of professional, administrative, technical, and clerical pay (PATC) a week ahead of time for use in determining the amount of October pay adjustment for Federal white-collar employees. The survey is on an extremely tight production schedule that calls for a March reference date and a July 1 release of tabulations. During the year, the staff did substantial research in developing and revising job definitions to be used in classifying workers in future surveys. The Office released data on employee paid leave and benefit plans in the private sector for the second time in 1981. The survey provides a unique source of comprehensive data on the detailed characteristics of employee benefit plans—leave, pensions, and a variety of insurances—in private industry. The PATC survey again was the vehicle for collection of paid leave information requested by the Office of Personnel Management for its total compensation comparability project, which is a major element in the Federal Pay Reform proposals now before the Congress. The staff continued planning begun in 1979 for future survey activities relating to pay reform proposals.

The Bureau conducted area wage surveys in 70 areas under its regular program and an additional 117 area wage surveys and 120 special industry wage surveys under contract with the Employment Standards Administration for use in administering the Service Contract Act (SCA). Two surveys of Brevard County were also conducted to meet the emergency needs of the National Aeronautics and Space Administration.

Adding data on the proportion of workers participating in health maintenance and insurance plans enhanced 24 regular area wage surveys. (In 1980, this item was added to the first 24 areas and, in 1982, the remaining 22 areas will be included.) All 70 regular surveys bulletins included an improved set of matrix tables, showing occupational pay relationships in establishments. Improvements in the timeliness and appearance of SCA publication summaries were made through the introduction of photocomposition.

The Office continued to upgrade the analytical approaches to industry wage studies (IWS) through the use of regression techniques, variance analyses, and the occupational pay matrix. The staff prepared a *Monthly Labor Review* (MLR) article on wage dispersion by industry which appeared in the April 1981 issue. Another article tracing pay trends in public and private pay in the last half of the 1970's appeared in the July MLR.

The staff continued to add new studies to the Industry Wage Survey program: Savings/loan associations, electrical transmission equipment, smelting and refining of nonferrous metals, and electrical machinery. Combining two or more related industry studies into one study through "survey umbrellas," initiated 3 years ago, has

reduced data collection costs as well as provided a broader base for analyzing industry sectors. Photocomposition of IWS bulletins has trimmed an average of 1 month from publication lag.

The Bureau improved the timeliness of material issued on major collective bargaining agreements. A bulletin on interplant transfer provisions was issued on schedule, as was a bulletin on characteristics of major collective bargaining agreements.

The staff partially computerized production of monthly data on work stoppages, allowing same day release to the national office and regional offices through the Bureau's LABSTAT system.

Responding to the growing importance of collective bargaining in the public sector, the Bureau improved the timeliness of the new series on the size of public sector labor-management agreements. Production time was cut in half, and the goal to produce public sector data on the same schedule as private sector data—1 month after the reference month—will be achieved early in 1982.

The Office completed a series of studies on the economic effects of the Fair Labor Standards Act, with a nationwide survey of employee earnings and hours in May 1980. Designed to meet the needs of the Employment Standards Administration, the survey provided data on the frequency distribution of employees by individual hourly earnings and weekly hours of work. The staff developed separate data by employee age and sex, industry, and establishment status under the Fair Labor Standards Act.

Productivity and Technology

BLS continued to strengthen and expand its program of measurement, analysis, and research in productivity and technology. The staff extended the analysis of factors contributing to the productivity slowdown, including the impact of capital formation, energy price measures, as well as changes in the composition of the labor force for the private business economy and the nonfarm and manufacturing sectors.

The Office introduced new productivity measures for the Class I bus carriers, transformers, nonwool yarn mills, machine tools, metal cutting machine tools, and metal forming machine tools industries to the list of industries for which measures are presently published. About 100 separate productivity measures are now published in the manufacturing, mining, transportation, trade, communication, and service sectors of the economy. The staff also completed a comprehensive chartbook on productivity and the economy.

The Office refined and expanded the series on productivity in the Federal Government to cover 405 organizations, up 31 from 1 year ago. The staff completed indexes for the 1967-80 fiscal years for 28 functional groupings of Federal agencies representing 66 percent of the Federal civilian work force.

The staff updated trends in manufacturing productivity and labor costs for 11 countries during the year and compiled estimates of the comparative levels of compensation of wage earners in 33 countries and 34 manufacturing industries. In addition, the Office updated international comparisons of labor force, employment, and unemployment in nine industrial countries and issued a special bulletin on youth unemployment. These measures provide

insights into the changing competitive position of the United States.

The Office studied the employment implications of automation and other technological changes and prepared reports appraising the impact of major technological changes on productivity, employment, and occupational requirements over the next 10 years on five additional major American industries.

A survey on labor and material requirements for shopping centers and retail stores was completed, and one for single-family housing was initiated. These studies measure the total labor and material requirements as well as the occupational distribution of the types of construction to serve as a basis for estimating the labor-generating effects of construction programs.

Economic Growth and Employment Projections

This Office prepares projections of economic growth and employment by industry and occupation. A system of models has been developed to make medium- to long-range projections of GNP, industry output, and employment under alternative assumptions about Federal government policies, labor force participation, unemployment rates, and other factors. A macroeconomic model provides estimates of aggregate supply and demand while a projected input-output model is used to estimate the effects of aggregate economic levels and policies on employment by industry. A projected industry-occupation matrix is used to translate industry employment requirements to occupational employment.

The projections provide insights into the effects of Federal government policies on the magnitude and industrial composition of demand and employment by industry and occupation, and they assist industry and State and local governments in anticipating changing market structures and in formulating their own medium- and long-term plans. The occupational projections are designed primarily for use in career guidance and education planning and provide the data for the Occupational Outlook Handbook and other career guidance publications issued by the Bureau.

In addition, the data base and models, which have been developed over time as part of the projections system, provide an important analytical capability to deal with a wide variety of current employment issues of interest to the Department and others. Projections of various sectors of the economy have required a thorough study of recent conditions and relationships affecting output and employment. The Office provides other Federal agencies with estimates of the effect of their total outlays, or of particular programs, on private jobs in recent periods. Work on current job estimates in fiscal 1981 included studies on the employment requirements generated by energy changes, defense expenditures, construction, and agriculture. The Office also prepares current summaries of the principal economic indicators and provides a monthly summary and analysis of short-term economic forecasts.

During the past year, the staff prepared several articles presenting a new set of labor force, economic, employment, and occupational projections to 1990. Work to improve the timeliness of the underlying data bases was undertaken and planning for an extension of the projections to 1995 was completed.

In the occupational area, the staff prepared the 1982-83 edition of the *Occupational Outlook Handbook*. National estimates of occupational employment by industry were prepared for 1978, 1980, and projected 1990 based on data from the Occupational Employment Statistics Surveys.

Occupational Safety and Health Statistics

In fiscal year 1981, the Bureau of Labor Statistics surveyed about 285,000 employers for reports of their occupational injuries, illnesses, and fatalities. From survey responses, national estimates of incidence rates and numbers of occupational injuries and illnesses on a calendar year basis are prepared and made public. The Supplementary Data Systems (SDS), based on selected State workers' compensation information, and the Work Injury Reports survey program (based on questionnaire responses of injured employees) continued intact as adjuncts to the annual survey, each providing more information on work-related injuries and/or illnesses.

In the annual survey conducted in fiscal 1981, the Bureau continued for the third successive year to obtain data from employers on the object or the event associated with job-related fatalities. In November 1980, BLS issued two press releases on the results of the 1979 survey—one on the general annual survey estimates and the other on causal patterns of fatalities by major industry classification. Detailed occupational injury and illness statistics were also published in a summary and in five industry guides which assist employers in evaluating their injury and illness experience. States participating in the annual survey program release data in similar publications.

In fiscal 1981, 35 States agreed to supply injury and illness data based on workers' compensation first reports of injury under the Supplementary Data System. This system obtains information on detailed characteristics associated with work accidents. The information supplements the industry-specific trend data derived from the annual survey and is transmitted to OSHA and NIOSH for use in meeting their respective program responsibilities. Additionally, standard tabulations showing distributions of occupational injuries and illnesses by work characteristics and work situations are generated for each participating State.

BLS and participating States analyze the distribution and clusters of cases from the SDS with particular emphasis on the characteristics of injuries and illnesses, including the industry of the injured or ill employees. Standard tabulations for each State and records of individual cases are made available to accident preventionists and researchers through the National Technical Information Service, and potential users are informed of their availability in special announcements. These tabulations and analyses serve a wide variety of applications in the occupational safety and health area.

In the 1981 fiscal year, analyses of amputation injuries and of injuries by age of the worker appeared in the *Monthly Labor Review*. The first presented data showing that young workers are hurt more, but not as seriously, as older workers; the second reported an estimate of 21,000 amputations in 1977, most involving the loss of a finger.

The Bureau developed a new measure of work injury risk. For the first time, a ranking of hazardous occupations will be available. An article describing the new

measure and presenting some results appeared in the *Monthly Labor Review*.

At the request of the Occupational Safety and Health Administration, the Bureau drafted an injury profile of the Heavy Construction, Except Highway and Street Industry (SIC 162). This report contains detailed information on the major factors associated with work-related injuries in this industry, including industry incidence rates, the ages of injured workers by duration of employment, their sex and occupation, the nature and source of injuries, the parts of body affected, and the types of accidents which produced the injuries.

The BLS continued its Work Injury Reports (WIR) survey program in order to obtain detailed accident information directly from injured employees, which is not

available from either the annual survey or the SDS. Four occupational injury studies were completed in the 1981 fiscal year, relating to servicing and maintaining equipment, amputations, back injuries, and hand injuries. Currently planned surveys are related to falls from elevators, falls on stairs, logging, and oil and gas extraction.

The OSH Act requires statistical programs to meet Federal and State needs, encourages the participation of States in the programs, and authorizes grants to provide half the funding of State costs. Recordkeeping, the annual survey, SDS, and the WIR surveys of injured employees are all carried out with the participation of State agencies. In fiscal 1981, 48 States participated in the annual survey; 35 in the SDS; and 25 in the WIR.

Occupational Safety and Health Administration

Under the new Administration OSHA has adopted three principles in its efforts to improve workplace safety and health conditions.

The first is equal emphasis. The agency is striving to place equal emphasis on all of the problem-solving tools that Congress gave OSHA to carry out its responsibilities. These tools include the ability to set standards, enforce compliance, approve State programs, provide consultation, offer education and training, and foster the creation of special projects.

The second element is selectivity. Since OSHA's resources are limited, the agency must be extremely selective about what it chooses to do. Every action must have a demonstrably positive effect at the workplace level.

Finally, OSHA seeks and offers cooperation. Neither antibusiness nor antilabor, OSHA is a regulator that intends to work alongside both, seeking new and better ways to protect workers by reducing or eliminating workplace hazards.

Standards Setting

OSHA is using a four-step process in the promulgation and review of both safety and health standards. The purpose of the process is to ensure that any standards set by the agency will be sensible, effective, and enforceable. The four steps are (1) to demonstrate a significant risk; (2) to demonstrate that the proposed standard will reduce that risk substantially; (3) to collect scientific data and analyze it in terms of industry-based economic feasibility to set a standard; and (4) to determine the most efficient and effective way of attaining that standard.

Health Standards

During fiscal year 1981, OSHA published an amendment to its standard for occupational exposure to noise. This amendment provided for the establishment of hearing conservation programs in industries where workers are exposed to more than 85 decibels. The effective date of the amendment was stayed, however, until August 22, 1981, to permit the agency to consider numerous requests and petitions to clarify and amend the new rules. As a result of this reexamination, OSHA allowed much of the amendment to become effective, but also announced its intention to reopen the public record and, possibly, revise several other

provisions of the amendment.

In keeping with the July 1980 Supreme Court decision in the "Benzene Case," which required OSHA to consider the significance of risk in promulgating occupational health standards, OSHA published a notice in the *Federal Register* deleting those portions of its cancer identification and classification regulations that conflicted with the court's ruling. On January 23, 1981, the agency published proposed revisions to 29 CFR Part 1990 to bring the regulations into conformance with the court's directive. These conforming amendments were withdrawn on March 17, 1981, to give the new administration time to consider regulatory alternatives not reviewed prior to publishing the proposed amendments.

Although OSHA had promulgated its final standard for occupational exposure to lead in November 1978, the standard had been partially stayed and was the subject of several legal challenges brought by industry and labor. On August 15, 1980, the U.S. Court of Appeals for the District of Columbia Circuit upheld the lead standard in most respects for a number of industries. However, the court also found that OSHA had failed to present substantial evidence to support the feasibility of the standard for approximately 45 other industries. The court gave OSHA 6 months in which to complete a reassessment of the issue of feasibility for these industries. Accordingly, OSHA published a supplemental statement of reasons in the *Federal Register*.

Following submission of the supplemental statement of reasons to the court, several industry groups informed the agency of their intention to file administrative request for reconsideration and stay of the remanded standard. Therefore, OSHA and the industry petitioners jointly filed a motion with the court asking that further judicial proceedings be held in abeyance pending OSHA's action on the reconsideration request. The court granted the motion to defer action on the supplemental statement until October 11, 1981.

In the interim, OSHA published an advance notice of proposed rulemaking in the *Federal Register* announcing its intention to reevaluate and reconsider the entire lead standard and to review the technological and economic feasibility of complying with the regulation. This review is currently under way.

On January 16, 1981, OSHA published a proposed standard that would require employers to identify the hazardous chemicals in their workplaces and to inform their employees of the identity and nature of the employees' hazardous exposures. This regulation was believed necessary to provide information to the approximately 25 million American workers who are exposed to hazardous materials in their workplaces. On February 12, 1981, the proposed rules were withdrawn to give the agency time to consider regulatory alternatives that had not been fully considered. The agency intends to repropose a hazards identification standard early in fiscal year 1982.

In keeping with the current administration's policy on regulatory reform, OSHA has announced its intention to review and reevaluate a number of existing occupational health standards. These include the generic cancer standard, the cotton dust standard, the noise standard, and the regulations for access to employee medical and exposure records. Reviews of these regulations were under way at the close of fiscal year 1981.

Safety Standards

During fiscal year 1981, OSHA continued its efforts to review and revise entire subparts of the general industry standards to update and clarify the language of the requirements. Through the use of performance-oriented standards, employers, especially small business employers, can more easily determine what requirements are being placed upon them. The employers are also free to determine how to comply rather than follow detailed specification requirements. As part of this effort, OSHA published an advance notice of proposed rulemaking to announce an intention to revise Subpart H, Hazardous Materials, to clarify the language and requirements of the current standards. Also in 1981, OSHA began a new effort to review every existing safety standard to determine those which may require revision, amendment, or revocation. The agency published a plan in the *Federal Register* that outlined which subparts of regulations will be reviewed each year of the next 10 years.

OSHA promulgated an important rule permitting revisions to be made to the former electrical standard resulting in one which is more performance oriented. The new standard clarifies and simplifies the mandatory requirement of the original regulations by reducing the word volume by 90 percent while maintaining the same protection afforded to employees. OSHA also issued a final standard on guarding of low-pitched roof perimeters during the performance of built-up roofing work.

OSHA proposed a new standard for marine terminals on January 16, 1981. These regulations, when final, will represent a comprehensive set of performance-based standards that will provide a significant reduction in the amount of mandatory regulatory compliance at present required of industries engaged in marine cargo handling. Many of the general industry standards (29 CFR 1910) would become inapplicable and the agency would, in effect, reduce the volume of regulations to one-sixth of the current regulations.

During fiscal 1981, informal public meetings were held on lockout/tagout requirements to protect employees from injuries caused by failure to deactivate or prevent reactivation of movable electrically energized or pressurized equipment while employees are performing work on such equipment. Information on conveyors was requested and informal public meetings were also held.

Work continued on tunnels (underground operations) and the possible revision of the multipiece rim wheel standard.

Compliance

OSHA's 1,200 Federal compliance officers are responsible for the protection of approximately 40 million employees in 3 million of the nation's workplaces. (Some 30 million workers and 2 million workplaces are under the jurisdiction of OSHA-approved State operations.) To maximize compliance officers' effectiveness, the agency has created a targeting system that will enable them to concentrate their efforts where the serious hazards are.

The new program evolved from field-testing a variety of new approaches for improving inspection targeting. Of nine experiments conducted over the past year, early findings from two were found to be particularly promising. As a result, procedures tested by the Milwaukee and Pittsburgh area offices were combined to form the new targeting strategy for fiscal 1982. This change will permit the agency, for the first time, to direct programmed safety inspections to those establishments with the highest lost work-day case rates. In the past, targeting has been based on industry rates and, as a consequence, both "high" and "low rate" firms were targeted.

During an inspection, compliance officers discuss with employers and employees the full range of agency services—including consultation, education and training—to help them achieve safe and healthful workplaces. In turn, compliance officers have a number of tools to aid them in the inspection process. The following are some of those tools.

OSHA's Salt Lake City Analytical Laboratory, responsible for analyzing work-site samples, made 109,000 individual analyses of 49,500 samples in the past year. This laboratory was upgraded and made more efficient through improved equipment and increased computerization. The lab was recently designated a "flagship" laboratory by the accreditation committee of the American Industrial Hygiene Association. Sample turn-around time has been reduced from 23 days 3 years ago, to 9 days now.

The Maintenance and Calibration Laboratory, responsible for maintaining equipment used during inspections, has computerized the shipping and sound department to improve the management of equipment. The status of 30,000 pieces of equipment handled annually by the laboratory is entered into a computer, as is all new equipment, prior to being shipped to the field. This provides an accurate check of the listings in the Departmental Property Management System and assists the regions in their management of equipment. Other improvements in field

equipment procedures include the establishment of an equipment advisory committee to coordinate use of equipment in the field (including reallocation of excess equipment); redesign of the vertical elutriator used in measuring cotton dust, to avoid conflict with the OSHA electrical standard; and coordination of field equipment purchases to take advantage of bulk price discounts.

OSHA's Office of Occupational Medicine conducts field investigations in response to requests from the field. In fiscal year 1981, 22 such investigations were conducted, including a study of fatalities in a resins manufacturing firm, a study of asbestos exposures, and a study of birth abnormalities in a hospital.

The agency's Health Response Team, consisting of high-level industrial hygienists, provides specialized industrial hygiene assistance to the regions. The team assists in complex or specialized inspections, including conducting most of the OSHA inspections for nonionizing radiation throughout the United States in 1980-81. This past year the team trained two representatives from each region to conduct these inspections. A three-part video tape on nonionizing radiation was produced to provide additional guidance. Other projects on which the team worked include measuring nitrogen oxides for an area office in the Atlanta region, helping with the inspection of a major lead smelter in the Seattle region, responding to a report of illness in a Federal building in Idaho, and investigating dust exposures in a Florida post office.

The Technical Data Center (TDC) supports all areas of the agency by maintaining hard copy and on-line access to technical information. This year the TDC completed the first phase of reducing the docket files to microfiche in order to protect these one-of-a-kind records. A cooperative effort with the regions resulted in upgrading technical reference libraries in the field.

The Office of Variance Determination reviewed 115 applications for variance from the standards. Of special interest was the assistance given to the Chrysler and Ford Motor companies by the granting of variances from the lead and arsenic standards for their solder grind operations. (General Motors was granted an identical variance in 1980.) The variances permit alternative practices that provide equal or better protection for workers. The office also has worked closely with labor and industry in developing guidelines for constructing chimneys to heights of several hundred feet.

The Office of Statistical Studies and Analyses published a study of fatalities related to oil/gas well drilling rigs and prepared in draft another study related to fatalities involving miscellaneous working surfaces.

During fiscal year 1981, OSHA reviewed about 400 adverse administrative law judges' decisions and in about 160 of these cases filed a petition for review of the judge's decision with the Occupational Safety and Health Review Commission in Washington. Some of the novel issues raised in the review commission trial and appellate cases included whether an employer violates OSHA's general-duty clause by exposing his employees to a known animal

carcinogen and whether an employer who places employees' medical removal protection (MRP) payments in an escrow fund rather than paying the employees, willfully violates the MRP provisions of the lead standard.

Other activities included the review of approximately 15 fatality inspections for possible criminal prosecution under Section 17(e) of the OSH Act. Approximately four of these cases were referred to the Department of Justice with a recommendation that the employer be prosecuted.

State Programs

OSHA was designed to be a partnership between the Federal Government and the States. Section 18 of the Occupational Safety and Health Act of 1970 provides that a State or territory that wants to assume responsibility for development of occupational safety and health standards may submit for approval to OSHA a State plan for such standards and their enforcement. Currently, OSHA has given initial approval to 23 comprehensive State plans and to one plan, Connecticut's, that is limited in scope to public employees of the State and its political subdivisions.

During fiscal year 1981, OSHA certified six States and territories as having completed all the commitments contained in their State plans, thereby indicating that the State or territory had in place all the structural components necessary to administer the OSHA program within its boundaries. This brings to 18 the total number of State plans that have been certified by OSHA. In addition, OSHA ceased withdrawal action against the Wyoming and Indiana State plans, and denied petitions requesting the withdrawal of the Virginia plan. Current information did not warrant withdrawal action.

Once a State plan is certified, OSHA's monitoring of the State plan focuses on whether administration of the plan is providing protection to employees that is at least as effective as that provided under the Federal OSHA program. After at least 1 year of this postcertification monitoring, OSHA may grant final approval to the State plan. An additional requirement for final approval was established in the court order under *AFI-CIO v. Marshall*, the "Benchmark Case," which requires a State to achieve 100 percent of its individual compliance-staffing level benchmark, as established by OSHA, prior to final approval. Believing that previously established benchmarks were unrealistic, OSHA began a review of the State plan compliance-staffing benchmark formula in order to develop staffing levels for the individual States which more closely reflect current agency policies. Under reduced benchmarks many States are expected to qualify in this area more quickly for final approval of their plans.

During fiscal year 1981, OSHA relinquished dual enforcement jurisdiction in the four States where such jurisdiction remained. Monitoring staff in those States was significantly reduced, freeing OSHA personnel for Federal enforcement activities.

Consultation

Employers in every State who want help in recognizing and correcting safety and health hazards in their workplaces can have a free on-site consultation service funded by the Occupational Safety and Health Administration.

Primarily targeted for smaller businesses, this safety and health consultation program is completely separate from the OSHA inspection effort. In addition, no citations are issued or penalties proposed.

Approximately 23,000 employers took advantage of this free service in fiscal 1981.

Training and Education

New Directions, the agency's grants program, makes funds available to employer organizations, labor groups, educational institutions and nonprofit firms interested in upgrading their safety and health competency through training. The grants create self-sustaining programs designed to allow the recipient organization to become independent of Federal funding after a 3 to 5 year developmental period.

The agency awarded \$18.4 million in grants during fiscal 1981 with \$328,000 of this in new grants and \$18.1 million for strengthening programs that received earlier grants. Of the total amount, \$2.1 million came from the National Cancer Institute. Because of New Directions grants, some 80,000 employers and employees received training and assistance.

As a result of the renewed emphasis on the area of education and training, the agency has implemented a new outreach system to publicize the program as well as new auditing and monitoring systems to ensure that the money is spent wisely.

To enhance the efficiency and quality of operations, management was upgraded at OSHA's Training Institute in Chicago by providing for a full-time director, chief of safety branch, chief of health branch, and instructional support groups. The institute trained 3,953 people during the year, including State compliance officers, other Federal agency personnel, and employer and employee representatives as well as OSHA compliance officers. New courses were added in three subjects: oil and gas well drilling, occupational health and environmental controls, advanced maritime safety and health problems and procedures. Training materials were provided to other Federal agencies on introducing 29 CFR 1960.20, "Federal Agency Safety and Health Program." In cooperation with the Department of Education, 50 curriculum modules were developed for vocational/trade school safety and health training programs.

The Institute's new board of directors conducted three meetings to provide recommendations for improvement of the Institute's curriculum.

An Instructor Fellows Program was implemented to

encourage the sharing of expertise of highly experienced professional staff within the agency.

Special Projects

The first responsibilities assigned to OSHA, in Section 2(b)(1) of the OSH Act, are to encourage employers and employees to reduce hazards and to stimulate new and existing programs for providing safe and healthful working conditions.

Special projects is the vehicle used by the agency to encourage nontraditional problem-solving techniques. One such example is the Bechtel Corporation's labor-management safety and health committee located at their nuclear plant in San Onofre, California. The program has been so successful that CAL-OSHA was able to drop the 21-acre site from its inspection targeting system.

A comprehensive nationwide program to encourage cooperative efforts by employers and employees is in the consultative stage of development. States with OSHA programs, OSHA field staff, labor-management committee experts, and union and trade association representatives have been asked for suggestions and constructive criticism of the developmental program. The public will be asked for comment and information before the end of 1981.

Under the OSH Act, Federal agencies are responsible for setting up their own on-the-job safety and health programs. The responsibilities of each of the more than 100 agencies in this matter are spelled out in presidential executive orders. The latest of these (E.O. #12196), effective on October 1, 1980, has new safety and health provisions strengthening on-the-job protection for the approximately 2.9 million Federal workers and encourages the establishment of labor-management committees.

On October 21, 1980, OSHA issued 29 CFR 1960, "Basic Program Elements for Federal Employee Occupational Safety and Health Programs," defining in greater detail the responsibilities of the agency, of the Secretary of Labor, and the heads of other Federal agencies.

Other special projects during fiscal 1981 include:

- A technical assessment of the health hazards associated with ethylene dibromide (EDB), the fumigant for the Mediterranean fruit fly.
- A technical assessment of the hazards associated with ethylene oxide as a result of a petition to the agency for an emergency temporary standard.
- An evaluation of a petition from the asphalt industry requesting that asphalt be separated from the standard for coal tar pitch volatiles. This evaluation included coordinating the analysis of asphalt samples with the analytical laboratory in Salt Lake City.
- A review paper on the economic impact on the auto industry of OSHA standards, other than lead and arsenic.

Employment Standards Administration

In accordance with the President's plan for economic recovery, the Employment Standards Administration (ESA) in fiscal 1981 focused on achieving significant spending reductions while protecting the rights of workers, taking steps to eliminate fraud and abuse in all programs, and reducing the paperwork burden on employers. By year's end administrative improvements, regulatory changes, and legislative proposals had been initiated to achieve these goals.

The Employment Standards Administration administers more than 90 laws affecting American workers and employers including the wage and hour laws, the Executive Order requiring affirmative action in Federal contracts, and various workers' compensation programs. Its three major program offices are the Office of Federal Contract Compliance Programs, the Office of Workers' Compensation Programs, and the Wage and Hour Division.

Office of Federal Contract Compliance Programs

ESA's Office of Federal Contract Compliance Programs (OFCCP) enforces Executive Order 11246, aimed at assuring that contractors using public funds do not discriminate against employees because of race, color, sex, religion, or national origin. It also administers Section 503 of the 1973 Rehabilitation Act and Section 402 of the Vietnam-Era Veterans' Readjustment Assistance Act requiring Federal contractors to take affirmative action to hire and promote qualified handicapped people, Vietnam-era veterans and disabled veterans of all wars.

During fiscal year 1981, OFCCP proposed regulatory and enforcement changes to promote equal employment practices by Federal contractors while streamlining procedures. It sought to speed the processing of complaints and reduce the reporting burden for those doing business with the government.

OFCCP conducted 3,136 compliance reviews of Federal contractors employing more than two million workers, and investigated another 2,011 discrimination complaints. It closed 172 compliance reviews and complaint investigations in which there was evidence of systemic discrimination.

There were 372 agreements in which contractors committed a total of \$8.4 million in back pay and other financial outlays for training, future pay increases, and increased recruitment. Back pay awards of \$5.5 million went to 4,765 women, minorities, disabled persons, and veterans. Handicapped persons received \$1.1 million in

back pay, the highest total in the 8-year history of the Rehabilitation Act.

Administrative complaints were filed against 13 companies. One contractor was debarred, losing eligibility to do business with the government.

The number of women working in construction and kindred trades increased by 39,000, or 5.1 percent, from July 1980 to July 1981. A nationwide study conducted by OFCCP concluded that the utilization goals were instrumental in the increase, particularly given the slackened overall demand for construction. A 20 percent hiring rate for entry-level jobs in the coal industry was achieved through a number of conciliation agreements to recruit and hire women in coal mines.

Agreements were reached between 696 employers and training service agents funded by the Employment and Training Administration to provide specific training or trainees for specific contractor job openings. These "linkage" agreements resulted in the immediate hiring of 949 persons, and will benefit many times that number as the agreements progress. The hires include minorities, women, handicapped workers and veterans.

OFCCP took the initiative in fiscal 1981 to encourage the establishment of Liaison Groups between industry, constituency groups and OFCCP. The groups help to bridge the communication gap with employers OFCCP regulates and serve to reduce the amount of confrontation with OFCCP compliance officers. The result has been a great increase in voluntary compliance, freeing the agency's resources to perform its job with fewer resources and to concentrate on more substantive discrimination issues.

Following publication of the proposed regulations on August 25, 1981, a 60-day public comment period elicited over 1,500 comments.

The Department also has requested public comments on affirmative action issues which will be the subject of future rulemaking. The issues deal with availability, back pay, utilization goals in the construction industry, coverage of Federal and non-Federal sites, and methods of determining job groups.

Minimum Wage and Overtime Standards

The flow of employee complaints and increased reports of workers exploited in sweatshops continued to determine the priorities of the Wage and Hour Division. The emphasis on complaint resolution reduced that inventory during 1981 from 22,791 to 19,692 despite 46,020 new complaints.

A total of 68,464 investigations were conducted under the Fair Labor Standards Act (FLSA) disclosing \$52.8 million in minimum wage underpayments due 396,000 workers and \$74.5 million in overtime underpayments due 291,000 employees.

Employers agreed to pay \$31.9 million in back wages to 325,000 workers and \$52.6 million to 250,000 employees due overtime pay. The total amount, \$83.5 million, in back wages that employers agreed to restore to workers represents a 20 percent increase from fiscal 1980.

The difference between the amounts reflects the refusal of employers to pay in cases deemed unsuitable for litigation. Complainants may bring private suits to collect back wages due, plus liquidated damages, attorneys' fees, and court costs. Amounts recovered in private employee suits are not included in ESA's enforcement statistics.

In fiscal 1981, strike forces were employed in New York, Philadelphia, New Orleans, Denver, Los Angeles, and San Francisco. These targeted enforcement efforts are concentrated in geographic areas and specific industries where there has been a history of non-compliance. Primary target industries were garment manufacturing, construction, restaurants, hotels, and motels. As a result of the 1,153 investigations by these teams, employers agreed to restore \$2.5 million in wages to 11,129 workers.

Child Labor Standards

During fiscal 1981, the Wage and Hour Division found 13,825 minors employed in violation of the child labor provisions of the FLSA, an increase of almost 40 percent over the previous year's 9,968 violations. Two-thirds of the minors were employed in retail trades; 3,781 were in nonagricultural occupations declared hazardous, and 131 in agricultural occupations declared hazardous. Six hundred and fifty-two minors were found employed contrary to other agricultural provisions of the FLSA.

During fiscal 1981, 975 employers were assessed almost \$1.5 million in civil money penalties for illegally employing 8,357 minors. Exceptions were filed with the Wage and Hour Administrator by 253 employers alleging that the penalties should not have been assessed and requesting a hearing.

The Department of Labor and the Environmental Protection Agency continued to work together on the issue of a waiver procedure to permit short-season crops to be hand-harvested by 10- and 11-year-olds if pesticides used on those crops are found to be safe for that age group. Research is under way to assess the health effects of pesticides on children employed in agriculture.

Special Minimum Wages

Special lower minimum wages were authorized by certificate for approximately 527,000 workers under the FLSA during the year. The law provides for such authorizations "in order to prevent curtailment of opportunities for employment" for handicapped workers, full-time students, learners, apprentices, and messengers.

The number of full-time students authorized under this program was 35 percent less than in the previous fiscal year, and the number of handicapped workers employed increased by 3 percent.

In September 1981, the Department reestablished the Advisory Committee on Sheltered Workshops that had

been in operation from 1939 to 1977. The Committee makes recommendations on the administration and enforcement of the wage and hour laws for the employment of handicapped workers in sheltered workshops and patient workers in hospitals and institutions at wages below the applicable minimum wage.

Industrial Homework

Regulations issued under the FLSA restrict homework in six industries to individuals who are handicapped and cannot adjust to factory work or who are required to remain at home to care for an invalid.

Adopted in the 1940's when it was determined that restrictions on industrial homework would safeguard the minimum wage, the restrictions apply to women's apparel; jewelry; knitted outerwear; gloves and mittens; buttons and buckles; handkerchiefs; and embroideries.

In January and February 1981, public hearings were again held to determine the need to continue these restrictions. A proposal to rescind the restrictions, inviting public comment, brought over 10,000 responses. On October 9, after the close of fiscal 1981, final homework regulations were published that lifted the homework restrictions in the knitted outerwear industry.

Farm Labor Contractors

Under terms of the settlement agreement in *NAACP v. Marshall*, a National Farm Labor Coordinated Enforcement Committee and regional coordination committees were established. As a result, the Employment and Training Administration, Occupational Safety and Health Administration, and ESA now coordinate their activities on behalf of migrant farmworkers at the national and regional levels. The Under Secretary is designated as chairman at the national level and the ESA Regional Administrators chair the regional Farm Labor Coordinated Enforcement Committees.

Wage-Hour Compliance Officers and Farm Labor Specialists in the field concurrently conduct investigations on the activities of farm labor contractors.

The Farm Labor Contractor Registration Act is the only Federal law that prohibits an employer (farm labor contractor) from knowingly employing illegal aliens. Cooperation between the Immigration and Naturalization Service and the Wage and Hour Division has served to deter the use of these workers in agricultural employment. In fiscal year 1981, some 2,364 illegal alien workers were found to be employed compared to about 4,000 the previous year.

Cooperation between the Department of Labor and the Department of Justice has led to indictments against farm labor contractors charged with involuntary servitude or peonage for holding workers in labor camps and forcing them to work in the fields against their will.

The Division conducted 4,631 investigations under the Farm Labor Contractor Registration Act this fiscal year, of which 3,603 were found to be covered by the Act, reflecting a violation rate of approximately 60 percent.

Violations by users of farm labor contractors included the hiring of unregistered contractors and the failure to maintain required records. Civil money penalties in the amount of \$1 million were assessed in 680 cases. Collections on penalty assessments amounted to over a half million dollars.

During three-fourths of the calendar year, 17,268 farm labor contractors and their employees were registered with the Department, placing 556,769 crew members under the protection of the Act, while 119 certificates of registration were either revoked or denied for violations.

Two court cases decided this fiscal year had an impact on the farm labor enforcement program.

In the *Mountain Brook Orchards* case, the U.S. Court of Appeals for the Third Circuit upheld the Department's interpretation of Section 4(c) of the Act which prohibits engaging the services of an unregistered farm labor contractor. Mountain Brook Orchards had been assessed a civil money penalty for violation of that section of the Act.

In a criminal case involving involuntary servitude, *United States of America v. Tony Booker and J.D. Rollins*, the U.S. Court of Appeals for the Fourth Circuit affirmed a ruling by the U.S. District Court for the Eastern District of North Carolina, holding that the conditions in a migrant labor camp operated by farm labor contractors Booker and Rollins violated the 13th Amendment, falling within the definition of slavery. This action was initiated through cooperation between the Department of Labor and the Department of Justice.

Prevailing Wage Laws

Early in the fiscal year, the Department published regulations (29 CFR Parts 1, 4, and 5) which would have revised and updated rules under the Davis-Bacon Act and the Service Contract Act. However, implementation of these rules was deferred pending a full regulatory review in accordance with Executive Order 12291, issued by President Reagan. Substantive revisions in these regulations were published in the Federal Register on August 14, 1981, requesting public comment.

Government contract enforcement showed an increase this fiscal year, as did the number of employee complaints about violations. Back wages were found due \$4,180 workers under the various government labor standards statutes (i.e., the Davis-Bacon and Related Acts, the Service Contract Act, the Contract Work Hours and Safety Standards Act, and the Walsh-Healey Public Contracts Act) totaled \$16,318,764. Included were \$13,802,727 in minimum wage and fringe benefit underpayments and \$2,516,037 in unpaid overtime compensation. Employers agreed to pay \$11,521,230 in back wages to 45,565 workers.

During the fiscal year, 14,894 prevailing wage and fringe benefit determinations were issued under Davis-Bacon and Related Acts, and approximately 5,900 under the Service Contract Act.

Federal Employees' Compensation

The Division of Federal Employees' Compensation (DFEC) made significant progress in providing service for injured Federal employees.

During the fiscal year, 76 percent of all traumatic injury cases received were processed within the 45-day standard, improving to 86.2 percent in the final quarter. Non-traumatic claims times also improved, with 39.1 percent being processed within the 150-day standard.

DFEC also made improvements in the timely payment of both medical bills and compensation. In the fourth

quarter of fiscal 1981, 80 percent of the medical bills received were paid within 28 days, and 85.2 percent of compensation payments were made within 14 days of receipt of claims.

Cases where compensation payments were made on a recurring basis were more closely monitored. More than 50,000 periodic roll cases were reviewed in fiscal 1981 and actions taken which resulted in annual savings in compensation payments of over \$20 million. Following a successful pilot project in the Boston Region, FEC district offices now use Wage-Hour compliance officers to investigate claimants on the periodic roll.

Emphasis has been placed on the rehabilitation of disabled claimants for reemployment in their former jobs. A joint Postal Service/DFEC rehabilitation project begun in 1979 continued to show good results in returning disabled workers to Postal Service employment. Other Federal agencies have been encouraged to find appropriate jobs for their disabled employees.

In all the FEC district offices, where claims are processed and paid, an automated data processing system had previously been put into operation, with the capability of receiving and paying medical bills. In fiscal 1981 an automated compensation payment component was added to handle payments to beneficiaries. These computerized operations give greater efficiency and accuracy to the program's payment system.

To guard against fraud and abuse, plans were made for the Office of Inspector General in cooperation with a number of other Federal agencies to conduct a nationwide review of cases drawing continuing payments. The Division already has actively pursued measures to strengthen security procedures used in the payment of bills and compensation and to protect the security of the computer system.

In an effort to contain medical costs, at year's end the Division was developing procedures for collecting information on questionable medical providers (physicians, hospitals, pharmacies, etc.) and was exploring the feasibility of contracting with private firms for the review of bills for medical services to determine the reasonableness of the charges.

Black Lung

The large backlog of black lung claims generated by the 1977 amendments was nearly eliminated during fiscal 1981.

The Division of Coal Mine Workers' Compensation issued initial findings on nearly 69,200 claims during the year, and received approximately 19,000 new claims. In addition, 17,600 miners who receive their black lung compensation from the Social Security Administration were authorized by the Labor Department to receive payments for medical treatment benefits from the Black Lung Disability Trust Fund.

The Division's activities began to shift to more emphasis on contested claims, each of which entails individual preparation for a hearing by an administrative law judge. More than 11,000 contested cases were prepared and forwarded to the ALJ's during fiscal 1981—over 1,000 more than in the previous year. Contested cases have already been scheduled through 1984 for hearings.

During the fiscal year, \$600.6 million in benefits were paid to approximately 89,000 coal miners or surviving dependents. In addition, the Social Security Administration paid out \$1.1 billion in fiscal 1981 on claims approved by that agency before 1972 when the Labor Department became responsible for the black lung program. The payments by SSA are made from appropriated funds.

Two significant regulatory matters were acted upon. The first involved publication of a proposed rule that more clearly defines those situations where a lessor of a coal mining property will not be liable for the payment of black lung benefits to employees of the lessee. The second matter was the publication of a proposed rule to provide a remedy for miners discriminated against in their employment because of evidence that they have black lung disease.

Improved procedures implemented during the year resulted in collecting \$42.9 million in overpayments and reimbursements owed the Government by claims beneficiaries, coal mine operators, insurance carriers, and medical providers under this program.

An automated payments system to facilitate the issuance of benefit checks has been developed and is being tested.

Total obligations from the Black Lung Disability Trust Fund for fiscal 1981 were \$805.6 million. Income to the trust fund from coal tax receipts and other revenues amounted to \$253 million, and \$555 million was borrowed from general revenues. At fiscal year's end there was an outstanding trust fund debt of \$1.5 billion. Legislative proposals were being prepared that would alleviate the trust fund deficit by increasing the tonnage tax on coal produced.

Longshore and Harbor Workers' Compensation

The Division of Longshore and Harbor Workers' Compensation made progress in improving its administration with claims examiner training courses and development and installation of an automated data processing system. The special fund disbursement system is now automated and an automated special fund accounting system is to be operational in fiscal 1982. User requirements for a national computerized case management system were developed, and the system is to be implemented in fiscal 1982.

A procedure was completed, installed in October 1981, for direct and automated payment by the special fund to about 1,500 beneficiaries entitled to permanent total disability and death benefits for injuries or deaths that occurred prior to the amendment of the Longshoremen's Act in 1972. The new procedure replaces a system of payment of these benefits by insurance carriers and employers who then claimed reimbursement from the special fund.

A full security policy requiring employers who are self-insured under the Act to deposit securities with the Division in the full amount of their outstanding workers' compensation obligations was initiated this year. The policy is designed to provide protection to the special fund in instances where self-insurers become insolvent or bankrupt; that protection is provided by a self-insured employer having a security deposit adequate to pay all outstanding workers' compensation claims.

The Longshoremen's and Harbor Workers' Compensation Act, as extended, covers approximately 900,000

employees. Injury reports and the resulting compensation cases are processed by 16 district offices.

State Workers' Compensation Standards

The Division of State Workers' Compensation Standards received and provided an analysis for 136 amendments to State workers' compensation laws during the fiscal year.

Special emphasis continued to be placed on providing on-site technical assistance to various State compensation systems. The unit also continued to work closely with State legislatures and advisory committees to prepare and evaluate proposed legislation.

The Division coordinated and sponsored the second annual New England States Workers' Compensation Conference in June 1981 attended by 135 individuals representing various interest groups such as industry, labor, the insurance industry, State officials, and legislators.

During the year the Division published its report, *State Compliance With the 19 Essential Recommendations of the National Commission on State Workmen's Compensation Laws, 1972-1980*. Research on implementation of 30 of the other 65 recommendations continues. Also published were Volumes 5, 6, and 8 of the Research Reports of the Interdepartmental Workers' Compensation Task Force.

The Division is completing a study on each State's administration system in order to assess the state of the art of State systems.

Vocational Rehabilitation

The Division of Vocational Rehabilitation increased the quality, quantity, and timeliness of vocational rehabilitation services, thereby reducing human loss and compensation costs.

In fiscal 1981, 750 injured Federal workers were rehabilitated saving more than \$10,000 per worker in compensation costs. This added up to total savings of \$7.5 million in compensation costs for the year.

In the Longshore and Harbor Workers' Compensation program, 386 injured workers in private industry were rehabilitated at savings for the year of more than \$8,000 per worker in compensation costs, with a total savings of \$3 million in compensation costs.

A comparison of Federal Employees' Compensation Act injured workers rehabilitated during fiscal year 1980 to those rehabilitated during fiscal 1981 indicates a 40 percent increase in the overall number of injured workers rehabilitated and a 76 percent increase in the number of injured workers rehabilitated with their previous employers.

An automated rehabilitation bill payment system was implemented in all FECA district offices during the year. The system eliminates time-consuming procedures and interruptions in adjudicative process, and makes possible the tracking of the cost of rehabilitation maintenance, plan development, training, and placement payments.

An FECA automated rehabilitation status code pilot project was field-tested this year, for national implementation in fiscal 1982. It should provide an important management tool for reviewing the progression of injured workers through the rehabilitation process. An automated system for early referral of claimants for rehabilitation consideration will also be implemented in the FECA program in fiscal 1982.

Mine Safety and Health Administration

During fiscal year 1981, the Mine Safety and Health Administration (MSHA) broadened communications and cooperation between the mining community and the government. It emphasized consultative programs to help mine operators identify and combat safety and health hazards, worked to design more cost-effective regulations, and targeted inspection resources to give extra attention to mines with special safety and health problems.

Enforcement activities improved through the Program in Accident Reduction (PAR) and Compliance Assistance Visit (CAV) program, which both assist operators in improving health and safety conditions and afford better worker production.

In addition, MSHA completed most regulatory actions required by the Federal Mine Safety and Health Act of 1977. In 1981, two new regulations became effective: the mine rescue team rule and the self-contained self-rescue device rules.

MSHA continued to involve the public in its rulemaking process and established committees to review all Metal and Nonmetal mine safety and health standards with a view towards eliminating unnecessary and outdated standards. In response to public comment, MSHA published a proposal that would revise its civil penalty regulations to provide more incentives for operators to comply with the Act.

Throughout the year, MSHA provided expertise to labor, operators, the academic community and State and other Federal agencies in guaranteeing a safe and healthy work environment for our Nation's most precious resource—the miner.

Coal Mine Safety and Health

More than 232,528 persons were employed during fiscal 1981 in the coal mining industry, working at 2,546 underground mines, 2,316 surface mines, and 1,200 other surface operations under MSHA's jurisdiction. Nearly 1,290 coal mine inspectors and specialists administered Federal coal mine safety and health regulations. Coal mine inspectors operated from 10 district offices, 18 subdistrict offices, and 68 field offices. The Coal Mine Safety and Health work force numbered 1,698 in fiscal 1981, compared to 1,797 in fiscal 1980, and 1,853 at the end of fiscal 1979.

MSHA conducted 86,450 coal mine inspections and investigations during fiscal 1981, of which 59,680 were at underground mines and 26,770 at surface mines and

facilities. Additional inspections and investigations focused on specific aspects of safety and health.

MSHA inspectors issued 14,973 citations to coal mine operators and independent contractors during the fiscal year for violations of safety and health regulations of the 1977 Act encompassing virtually the entire range of safety and health conditions and practices.

Coal mine operators filed 200 petitions for modification of safety standards with MSHA since October 1, 1980. Of these, 150 were granted, denied, or dismissed.

Revised procedures for respirable dust sampling by mine operators at coal mines became effective in fiscal 1981. Benefits from this revised sampling program are improved health protection for coal miners and a reduced regulatory burden on the underground coal mining industry. As part of the emphasis on dust control, the rules also provide that dust sampling in designated areas be discontinued entirely where the risk of high dust concentrations is eliminated. The revised program should assist in the reduction of incidence of coal workers' pneumoconiosis.

In conjunction with these revised dust sampling procedures, 1981 saw the success of a major new supporting computer system that aids in more efficiently processing respirable dust samples that are collected and submitted to MSHA each year by mine operators.

MSHA's Coal Mine Safety and Health activity introduced a revised quartz sampling program during fiscal 1981. This program enables quartz analysis to be made on respirable dust samples that were previously too small for processing and makes possible the measurement of quartz levels in practically all mines. Since only about 15 percent of the samples could be analyzed using previous procedures, this new procedure has significantly improved the protection of the miner's health. In addition, because fewer samples are needed, this new process has decreased significantly the number of samples MSHA must take.

Coal Mine Safety and Health carried out several programs that concentrate resources on critical and potentially hazardous areas. In one such program, the targeted mines were those where large quantities of methane are liberated; where the lost-day injury rate was greater than the national average; and where a history of roof falls, ignitions, fatalities, or severe injuries exists.

New regulations on "self-contained self-rescuers" became effective in June 1981. Coal companies are now making these devices available to all underground workers. Also in July 1981, new regulations became effective requir-

ing that every operator of an underground coal mine assure the availability of two rescue teams for each mine and that the teams be properly trained and equipped. In addition, MSHA signed a Memorandum of Understanding with the Commonwealth of Kentucky's Department of Mines and Minerals under which Kentucky will work cooperatively with mine operators to provide rescue services. MSHA is also actively exploring the possibilities of entering into such agreements with other States to ease the regulatory burden on mine operators and to reduce duplication of effort.

Since the passage of the 1977 Act, coal miners have filed 1,161 complaints of discrimination with MSHA. Under the provisions of the Act, 493 of these were withdrawn by the complainants because the cases were settled, 72 decisions were made in favor of the miners by the Federal Mine Safety and Health Review Commission, and 596 were dismissed.

Metal and Nonmetal Mine Safety and Health

The Metal and Nonmetal Mine Safety and Health activity through its 6 district offices, 12 subdistrict offices, and 71 field offices conducted 21,614 regular inspections at approximately 900 underground metal, nonmetal, and stone mines and about 14,000 surface mines, stone quarries, and sand and gravel operations during fiscal 1981. At yearend there were 517 metal and nonmetal mine inspectors, a decrease of 24 from the previous fiscal year. During the fiscal year 21,825 citations and orders for violations of standards and for imminent danger conditions were issued. In addition to regular inspections, compliance follow-up inspections were conducted to check the abatement of hazards on which citations or orders were issued; frequent inspections of gassy mines were made and further inspections conducted during shaft-sinking activities as well as during the operation of hoisting equipment, and at electrical installations. Growth in the oil shale and precious metals industries increased the importance of these inspections.

Two special emphasis programs continued in fiscal 1981. One, the Program in Accident Reductions (PAR), is aimed at reducing hazards at mines that have had injury incidence rates significantly higher than the national average. The success of PAR during fiscal 1981 at 60 selected operations—with its emphasis on good safety programs, job safety analysis, accident prevention training, and safety awareness on the part of both management and labor—is shown by the 40 percent reduction in lost-workday injuries during the first three quarters of fiscal 1981 compared with the same period during fiscal 1980. A total of 204 MSHA personnel and 53 persons from industry attended the PAR course presented at the National Mine Health and Safety Academy.

The Compliance Assistance Visit (CAV) program, begun in fiscal 1980, is the other special emphasis program. A CAV is conducted only at the request of a mine operator. It allows the operator to request an inspection of a new mine before it goes into operation on a seasonal or intermittent mine prior to reopening. The operator may request a CAV for a new section of a mine, new equipment, or a new installation within a mine. No monetary penalties are assessed for violations observed during the CAV. During fiscal 1981 2,494 CAV's were conducted and 15,301

nonpenalty notices were written, primarily at sand and gravel and stone mines.

Committees to review all metal and nonmetal mine safety and health standards were established to eliminate unnecessary and outdated standards, and to revise if necessary, those to be retained.

Metal and nonmetal investigations involved discrimination complaints; 188 special investigations were initiated on possible knowing or willful violations of standards.

Two health hazards, radiation and silica flour, received special attention. In response to a petition for an emergency temporary radiation standard from the Oil, Chemical and Atomic Workers Union and the Public Citizen group, MSHA and the National Institute for Occupational Safety and Health (NIOSH) began a reassessment of MSHA's current radiation regulations. When several silicosis cases were discovered at two silica flour mills, MSHA, with assistance from NIOSH, began a special, nationwide enforcement effort at all such mills.

Other special health projects conducted in cooperation with NIOSH were continued. They included studies on exposure to talc minerals, exposure to fibrous minerals, and the nature and extent of pulmonary diseases among cement workers.

Office of Standards, Regulations and Variances

The Office of Standards, Regulations and Variances, which coordinates MSHA's rulemaking process, continued work on those standards and regulations mandated by the Act, on rulemaking projects started before the Act was passed, and on the agency's review of all metal and nonmetal mine safety and health standards.

Regulations on revised sampling procedures for respirable dust in underground coal mines became final on November 1, 1980. New rules governing the sampling for respirable coal dust in surface mines and the transfer of miners with evidence of pneumoconiosis were scheduled to become effective on December 1, 1980. These regulations were temporarily delayed, and after an appropriate report was prepared in accordance with Executive Order 12291 on Federal Regulation, these regulations became effective on March 31, 1981.

The regulation requiring the use of self-contained self-rescue devices in underground coal mines became effective on June 21, 1981. MSHA, in cooperation with mine operators and the Bureau of Mines, engaged in exhaustive field testing of the devices to determine how they affected miners in actual mine situations. MSHA used the results of the field tests to help develop guidelines for their use.

Work continued on the surface safety and health construction standards required by the Act. In this area, MSHA will take necessary action to assure that maximum protection is provided to this segment of the mining industry.

In response to public comment, MSHA published a proposal which would revise its civil penalty regulations to provide more incentives for operators to comply with the Act. The proposal includes a fixed minimum penalty for nonserious violations.

MSHA reviewed all existing metal and nonmetal standards and regulations, consistent with the Administration's goals of regulatory relief. The following objectives have been set (1) to incorporate advances in technology;

(2) to reduce recordkeeping requirements; (3) to clarify existing standards; (4) to delete unnecessary standards, and (5) to assure that all standards are relevant. As a result of public participation, MSHA reviewed comments from more than 100 organizations and individuals. Early in fiscal 1982, MSHA will publish a priority listing of sections to be reviewed and will seek additional comment and specific regulatory proposals from the mining community on these sections.

One rulemaking project begun prior to the passage of the Act governs the sampling of respirable dust in underground coal mines. In April 1980, MSHA published a final rule covering new sampling procedures for respirable dust in underground coal mines, effective November 1, 1980. MSHA then proposed changes to the sampling program for surface mines and to the program providing for the transfer of miners who show evidence of pneumoconiosis. Further proposed changes would allow miners' representatives to participate in the entire dust sampling program. Public hearings were held to address these issues.

In December 1980, MSHA published a final rule regarding the procedures for sampling at surface mines and surface areas of underground mines and the transfer of miners having evidence of the development of pneumoconiosis. That rule became effective March 30, 1981. No further action was taken on the issue of miner participation.

During the fiscal year MSHA also proposed revisions to the following approval standards: Electrical Components and Headlights for Mobil Diesel-powered Transportation Equipment; Electric Cap lamps; and Signaling Devices. These proposals modify requirements for approval of equipment to allow MSHA to test and certify equipment that incorporates advanced technology. Comments were received and incorporated into the record.

Office of Assessments

The Office of Assessments, in fiscal 1981, continued to process all initial assessments within 17 days of receipt of the violation, and to honor all conference requests. The conference allows mine operators, miners, and miners' representatives to discuss violations and related initial penalties with assessment office personnel, and to present additional facts or advance legal arguments before the amount of the penalty is proposed by MSHA. These conferences—or informal hearings—resolve 85 percent of all assessed violations.

During fiscal 1981, 1,151 cases were referred to the Office of the Solicitor for a hearing. As of the end of the fiscal year, 7,392 cases were pending enforcement action by the Justice Department and 9,537 were pending enforcement action by the Labor Department Solicitor.

The Office of Assessments completed the review of its regulations promised when the rules were issued in 1978. After a review of written comments from industry and labor and several informal meetings with members of the mining community during the fiscal year, significant changes in the way intended penalties are calculated were proposed.

Education and Training

In fiscal 1981 MSHA's Education and Training activity continued to approve training plans and to train certifying

instructors under the provisions of the 1977 Act. About 6,000 training plans were approved or reapproved during fiscal 1981. Approximately 400 mine training programs were evaluated for effectiveness and compliance with the 1977 Act. A comparison of mine accident incident rates revealed that the mines that were evaluated showed an average 6-percent decline in incidents, while mines that were not evaluated showed an incident increase of 13 percent.

The power haulage accident rate rose drastically according to a 6-month study from October 1, 1980 through March 31, 1981. During this period, 1,040 injuries and 12 deaths from haulage accidents were reported in the coal mining industry. Responding to this problem, each Education and Training Center initiated a special awareness program aimed especially at those mines where power haulage accidents are a serious problem.

To keep current with the changes in mining techniques, new equipment, and new regulations Education and Training continued to develop training courses. In addition to 26 underground and surface training modules developed under contract, Education and Training developed and completed five courses and tests for dust-equipment maintenance, two self-contained self-rescuer courses, and one course each in waste impoundment and noise.

In fiscal 1981, 11 mine rescue seminars were given throughout the country. Three hundred industry instructors were trained in mine rescue and advanced mine rescue techniques; they in turn will train new mine rescue teams.

Funding allocations totalling \$6 million were made to 38 participating States. At present, the States, through the State Grants Program, are conducting instructor training and assisting mine operators in initial health and safety miner training and retraining, and, in some instances, conducting skills training. Fifty-eight consultation visits were made to the State Grants Program administrators. Continuous evaluations and consultations with each of the participating States has resulted in the program's increased effectiveness.

Education and Training's Audio Visual Service completed several 16mm training films, developed two video tape training programs, and distributed 5,500 training packages to industry.

National Mine Health and Safety Academy

Through education and training the National Mine Health and Safety Academy assists in reducing accidents and improving health conditions in the Nation's mines.

Located in Beckley, W. Va., the Academy offers a wide variety of programs, from 1-day courses to long-term resident programs of up to 12 weeks.

The Academy's programs are carried out through four departments: the Resident Education, Continuing Education, Office of Research and Planning, and the Business Office.

The Resident Education Department devoted 9,400 hours to classroom and laboratory instruction during fiscal 1981. This represents a 27-percent increase over instruction hours in fiscal 1980.

Some of the new courses developed and offered by the Resident faculty during the year are six graduate level courses for MSHA's Education and Training personnel;

the Program in Accident Reduction (PAR); Human Factors Engineering; a number of industrial hygiene courses on special hazards of mining; and other courses for personnel in the coal mining industry.

In fiscal 1981, the academy developed a course in ethics and standards of conduct. Required of all metal/nonmetal and coal inspectors, the program provides guidelines of conduct in the working environment, treating such subjects as conflict of interest and conduct on Federal property. MSHA managers and supervisors received training.

Correspondence course completions continued to increase in fiscal 1981. A total of 684 course completions represented 2,587 continuing education units and 4,294 student days. These courses cover a wide range of topics relating to mining health and safety.

The Academy's Learning Resource Center supports all Academy programs with a collection of books, periodicals, films, video tapes, slide presentations and other reference materials on safety and health topics, mining engineering, human relations, and other related subjects.

The Publications Distribution Center, completed in July 1981, allows MSHA to centralize the distribution of its safety and health publications and other instruction materials.

Technical Support

During fiscal 1981, MSHA continued to meet its technical support objectives by completing about 6,924 approval actions on equipment used in the mining industry, approving 51 blasting plans for the Department of the Interior, Office

of Surface Mining, and processing 173,490 respirable coal mine dust samples within 1 day of receipt.

The Health and Safety Analysis Center received and analyzed 142,708 accident, injury, and illness reports to predict areas of increased occupational hazards and to facilitate effective enforcement programming. Quarterly summary accident, injury, and fatality reports for coal and metal/nonmetal mines were prepared and published. Twenty internal reports were prepared and distributed upon request. These reports provided in-depth analyses of pertinent hazards or trends in mining for the information of MSHA officials and the mining industry.

More than 4,650 noise and radiation instruments were calibrated for use by the inspectorate. Requests for technical assistance from enforcement resulted in more than 610 in-mine investigations of safety and health hazards. MSHA recommended approval of 230 mine waste impoundment plans and 40 devices for use in lieu of canopies.

The Mine Emergency Operations facility at Hopewell, Pa., was purchased, and specialized mine emergency equipment for the search and rescue of entrapped miners maintained.

MSHA developed and implemented a new analytical procedure for determining the quartz content of respirable dust samples collected in coal mines. The new technique increases accurate sampling for compliance while it significantly reduces the enforcement effort by taking single samples rather than the multiple samples required previously.

Labor-Management Services Administration

Using a new Compliance Audit Program (CAP), the Labor-Management Services Administration (LMSA) greatly increased the number of union financial audits and embezzlement investigations conducted in 1981.

Regulations were issued to reduce reporting requirements under the Federal pension reform act and LMSA continued to concentrate its enforcement resources on pension cases involving a significant amount of plan assets and the greatest number of plan participants.

The focus of labor-management relations during the year turned increasingly toward the need for cooperation between management and labor to overcome serious problems with productivity and to recognize the efforts of a changing workforce to gain a greater voice in making workplace decisions.

During the year, the Supreme Court handed down a decision clarifying the rights of Reservists under the Federal veterans' reemployment rights law. Appeals courts also issued important rulings on the reemployment rights of disabled veterans and the impact of the law on private pension plans.

Labor-Management Enforcement Programs

A new strategy for auditing union financial records designed to identify and concentrate resources on cases most likely to involve major civil and criminal violations of the law enabled the office of Labor-Management Standards Enforcement (LMSE) to greatly increase the number of audits and embezzlement investigations conducted. Using the Compliance Audit Program (CAP), LMSE completed 904 union audits in 1981 compared with 82 the year before. The agency conducted 647 embezzlement investigations during the year.

The Labor-Management Reporting and Disclosure Act (LMRDA), also known as the Landrum-Griffin Act, requires virtually all unions to file annual financial statements with the Department. There were 50,904 active labor organizations with reports on file as of September 30, 1981.

LMSE completed 7,504 investigations during the year. Of these, 5,513 involved delinquent or deficient union financial reports. There were also 256 investigations involving union elections.

The Department instituted 59 civil actions under LMRDA in Federal district courts, including 50 to set aside union elections. Criminal charges under the law were brought against 37 persons. Twenty-six people, including

some indicted in previous years, were convicted of LMRDA violations or agreed to pretrial diversions of their cases in 1981, two individuals were acquitted, and criminal charges against three others were dismissed.

The agency received annual financial reports from 2,991 labor organizations of Federal Government employees. These reports are required under the Standards of Conduct provisions of the Civil Service Reform Act. LMSE completed 151 Standards of Conduct investigations during the year, including 24 involving Federal employee union elections and 99 involving delinquent or deficient reports.

The Branch of Election Assistance (BEA) gave advice and help on the election provisions of LMRDA to 40 national and international unions. The BEA is preparing to complete a supplement to its elections and trusteeships case digest in 1982. BEA also processed more than 193 written, telephone, and walk-in inquiries from national and international union officials.

LMSE obtained voluntary settlement of national union officer election complaints involving the American Federation of Government Employees and the International Association of Fire Fighters. In each case, LMSE is preparing to supervise the union's next regularly scheduled election in 1982.

LMSE issued two major publications during the year. The *Union Officer Elections and Trusteeships Case Digest*, published in December, contains more than 1,400 cases involving the union election and trusteeship provisions of the LMRDA. The *Register of Reporting Labor Organizations*, published in April, lists the more than 50,000 labor organizations that filed reports with LMSE in 1980 under the requirements of the LMRDA.

Pension and Welfare Benefit Programs

The office of Pension and Welfare Benefit Programs (PWBP) continued to reduce the number of pending applications for exemptions from the prohibited transaction provisions of the Employee Retirement Income Security Act (ERISA). The office also continued to improve coordination of enforcement activities with the Departments of Justice and Treasury.

PWBP closed 675 exemption applications in 1981, compared with 652 the year before. It issued a series of class exemptions which made compliance with the prohibited transaction rules easier. In addition, PWBP issued a publication discussing exemptions and describing how to apply for them.

Nine regulations were issued or proposed during the year, most of them reducing ERISA's reporting requirements. One regulation, issued in conjunction with the Department of Health and Human Services, exempts employee welfare plans that offer membership in a qualified health maintenance organization from some reporting, disclosure, and claims procedures of ERISA. Another new regulation allows the administrator of an employee benefit plan to defer obtaining an accountant's opinion of its annual report for that year if the report covers a plan year of seven months or less. A regulation was also issued providing a reporting alternative for simplified employee pension plans.

To improve coordination of enforcement activities, PWBP joined with the Internal Revenue Service to monitor compliance with two class exemptions issued under ERISA. A task force from the two agencies investigated more than two dozen firms in Dallas, Houston, and Los Angeles offering services to employee benefit plans. The Department plans to extend this type of monitoring system to other major cities next year.

PWBP staff received a new compliance manual requiring the exchange of information on organized crime and racketeering between PWBP and the Labor Department's Office of the Inspector General. The manual also provides guidelines to be followed by field investigators to help achieve voluntary compliance with ERISA by plan administrators. PWBP continued its shift in emphasis, begun in 1979, from technical assistance to fiduciary enforcement, concentrating on cases involving a significant amount of plan assets and the greatest number of plan participants.

PWBP continued to help retirees obtain benefits due them through the individual benefit recovery program. More than \$3 million in lump sum payments or annuities were recovered for plan participants during the year. This program supplements the work of field investigators who devote most of their time to fiduciary violations.

Research studies issued during the year focused on the effects of ERISA on multiemployer pension plans, group health plan coverage, the increase in benefits offered by employee welfare benefit plans, part-time jobs of retirees returning to work, and the retirement plan coverage and vesting status of workers aged 14 and over.

Publications and other materials were produced and distributed during the year to educate plan practitioners and participants about their rights and responsibilities under ERISA. One publication explained the new triennial reporting system for small employee benefit plans; another described the fiduciary provisions of ERISA and discussed the "prudence rule" as it applies to pension plan investments.

Labor-Management Relations

Labor management relations in 1981 focused increasingly on the need for cooperation between management and labor to overcome serious problems with productivity and to meet the challenge of a changing workforce demanding a greater voice in workplace decisions. The creation of in-plant labor-management committees and the implementation of quality-of-worklife programs, quality circles, and other employee involvement programs expanded significantly. These efforts sought to involve employees more in

workplace decisionmaking, use human resources more fully, and give workers a greater sense of dignity.

LMSA undertook several activities to analyze current labor-management relations, to assess needs arising from interest in and the growth of cooperative efforts to improve productivity and working conditions, and to encourage their development.

LMSA staff, in cooperation with the Federal Mediation and Conciliation Service, began work on a *Users' Guide to Labor-Management Cooperation*. This guide, listing examples of cooperative efforts between labor and management, is designed to promote such activities by stimulating an exchange of information among current and potential practitioners. LMSA staff conducted an extensive survey to obtain examples for the guide and to develop a broad picture of the status of such cooperative efforts across the country. Information developed by other government agencies and labor unions also were used for this analysis.

LMSA staff met with representatives of business, labor, and other labor relations experts to discuss how the agency could help them meet industry needs in the area of cooperative programs. An outreach effort began to assist unions and trade associations analyze their involvement in cooperative efforts and to plan with them ways to meet their interests and needs as identified through the surveys. LMSA also initiated a clearinghouse to provide the public and other government agencies with information on labor-management cooperation.

The agency continued its policy of encouraging resolution of labor-management disputes with a minimum of direct participation. This policy was followed in negotiations involving metal container workers, bituminous coal miners, air traffic controllers, postal workers, and off-shore maritime and West Coast longshore workers.

The Secretary of Labor and the President, as well as other key government officials, were given "early warning" reports on contract negotiations that could affect the national interest. During the bituminous coal strike, a Department working group collected and analyzed data provided by the Department of Energy to keep track of possible problems that could arise during a prolonged strike.

Training materials for mine committeemen of the United Mine Workers were developed during the year. These materials, including films, audiovisuals, workbooks, and instructors' manuals, were designed to teach committeemen to solve grievances that may arise at their mines. The goal of the training program is to promote labor-management stability in the coal mining industry.

LMSA continued to administer the Redwood Employee Protection Program established in 1978 to provide protections to workers who were adversely affected by the expansion of the Redwood National Park. In June, amendments to previously existing regulations were published clarifying criteria used for determining whether workers laid off after September 30, 1980 are eligible for benefits. Under the new amendments, workers would not be eligible for benefits if they were laid off because of a strike, lockout, maintenance shutdown, vacation shutdown, or other reason unrelated to the Park expansion.

In December, LMSA published the first digest of decisions in cases involving disputes over employee protections under the Urban Mass Transportation Act and the Rail

Passenger Service Act. The digest covered determinations made by the Assistant Secretary in 71 cases between March 1970 and June 1980.

Throughout the year, LMSA continued to certify that arrangements were made to protect the interests of employees affected by urban mass transportation grants made by the Department of Transportation under the Urban Mass Transportation Act of 1964.

LMSA continued to assist State and local governments and public employee organizations establish procedures for resolving labor-management relations problems. Upon request, the agency provided technical assistance, information and data services, and training and conference activities to management and labor in the non-Federal public sector. Special training seminars were held for newly appointed Public Employee Relations Board members, for labor and management representatives and for third party neutrals.

In February, LMSA published a new *Summary of Public Sector Labor Relations Policies* detailing the broad variety of existing labor-management relations policies which regulate the relationships between State and local governments and their employees. In 1980, 30 States, the District of Columbia, and the Virgin Islands had laws or executive orders covering collective bargaining procedures for some or all of their employees.

Veterans' Reemployment Rights

About the same number of veterans' reemployment rights cases were processed by the office of Veterans' Reemployment Rights (OVR) in 1981 as were handled in 1980.

OVR opened 2,383 new cases during the year compared with 2,404 in 1980. About 55 percent of the new cases involved the basic right of veterans to reinstatement in their preservice jobs. Cases dealing with Reservists and members of the National Guard accounted for 42 percent of the caseload, about the same percentage as last year.

About 2,360 cases were closed by OVR during the year, compared with 2,208 in 1980. The agency referred 123 cases to the Justice Department for possible legal action after mediation between the parties failed to resolve the complaint.

Reemployment rights briefings were given at military separation centers for 275,203 men and women returning to civilian life. This was slightly below the 276,444 briefings given in 1980, which was the largest number given since 1975.

Veterans attending the briefings also received information about other services available to them through other Labor Department agencies. Copies of the referral forms filled out by departing personnel were sent to the Employment and Training Administration to use in helping veterans find new jobs. OVR also used these forms to send information on the reemployment rights law to the employers of the 79,182 veterans who indicated that they had left a civilian job to enter the Armed Forces. Only 28.7 percent of the veterans indicated that they had been previously employed, compared with 30.8 percent in 1980.

In addition to compliance activities, there were a number of significant actions during the year on court cases initiated by OVR to protect the job rights of veterans and Reservists.

The Supreme Court ruled for the first time on the rights of Reservists under the Federal veterans' reemployment rights law. In the case of *Monroe v. Standard Oil of Ohio*, the Department sought amplification of the "incident or advantage of employment" provision of the law. The Department held that the right of rescheduling and a 40-hour work week were incidents or advantages of employment guaranteed to Reservists when their military duties conflicted with regular work schedules. In a five-to-four decision, the Court ruled against the Department's position, stating that nothing in the legislative history of the statute led it to believe that employers were obligated to reschedule Reservists and provide a 40-hour work week for them unless such treatment was provided to other employees.

OVR won a landmark case affecting the reemployment rights of disabled veterans. In *Hembree v. Georgia Power*, the first case of its type brought to the appellate court level, the court upheld the right of a disabled veteran to reinstatement in a job comparable to the one he would have had if he hadn't incurred a service-related injury. The Court of Appeals for the Fifth Circuit upheld a lower court decision that William G. Hembree, a veteran who lost the sight of an eye when a shell exploded, was not reemployed in a comparable job when he returned to Georgia Power Company, his civilian employer. The court ordered Hembree's reinstatement—with back wages—to a job with "like seniority, status, and pay" to the one to which he would have been entitled had he not been injured.

The Second Circuit Court of Appeals issued a ruling on pensions as a reemployment right protected under the law. In *Bunnell v. New England Teamsters*, the court decided that pension plans could be considered employers under the veterans' reemployment rights statute and therefore are obligated to reimburse veterans for benefits denied them in violation of that law.

In one of the largest single settlements ever obtained under the reemployment rights law, a veteran received \$75,000 from his former employer. The case *Eckhart v. Consolidated Rail Corporation*, was brought on the issue of delay in the reinstatement of a disabled veteran to a position comparable in seniority, status, and pay to his preservice job. Before going to trial, the case was settled and a lump sum payment was made to the veteran.

Two significant class action suits still were pending as the year ended. In both *Letson v. Liberty Mutual Insurance* and *Hunter v. Consolidated Rail Corporation*, groups of veterans contended that their military service should be counted as work time in computing pension benefits from their civilian jobs. These cases are believed to be the first class action suits filed under the veterans' reemployment rights law.

Policy Development and Research

Policy development and research activities covered a broad range of issues including changes in labor relations law, employee protections, worker privacy rights, and regulatory reform. Considerable attention was given to a Congressional proposal to strengthen the anti-racketeering provisions of the Labor-Management Reporting and Disclosure Act (LMRDA). Weekly and special reports kept the Assistant Secretary and other agency officials informed

about legislative activities in these and other labor relations areas.

LMSA strengthened its relationship with the Working Party on Industrial Relations of the Organization for Economic Cooperation and Development. The Director of the Office of Labor-Management Policy Development (LMPD) headed the U.S. delegation to the Working Party's meeting in Paris in July and was elected its vice-president. Most of the meeting was devoted to discussions of what government's role should be in helping to shape and affect labor relations policies.

The cooperative agreement, reached in 1979, under the Department-to-Ministry program with the Israeli Ministry of Labor and Social Affairs continued in 1981. The Department-to-Ministry program in an exchange between the Labor Department and the labor ministries of several other nations. The Assistant Secretary also participated in meetings with labor officials in Japan and Brazil.

Research and analysis programs contributed to improved administration and enforcement of the LMRDA and other laws administered by LMSA. The research staff continued to provide monthly reports on national union election procedures and schedules, developed information on collective bargaining agreements for the Office of Veterans' Reemployment Rights and produced data on the use of proxies at national union conventions and citizenship requirements for holding union office.

LMPD awarded a contract to study the mediation of grievances in the coal industry. The study developed a program offering prompt, informal, and inexpensive grievance mediation sessions conducted by a skilled neutral party. Another study funded by LMPD compared regulation of internal union affairs in Australia and the United States.

Studies were completed on strikes and strike penalties in the public sector, the administration of large local unions, and the effect of economic recession on local building trades unions.

Construction Industry Services

The second *Handbook of Wages and Benefits for Construction Unions*, the most comprehensive and current compilation of union pay scales and fringe benefits in the building trades now available, was issued by the Office of Construction Industry Services (OCIS). The *Handbook* contains entries from approximately 5,000 construction industry collective bargaining agreements. In addition to maintaining a data bank on wages and fringe benefits, OCIS monitored and reported on important developments in construction and published a biweekly newsletter on current events affecting the industry.

In its third *Annual Construction Industry Report*, OCIS analyzed industry data and trends in 1980, giving

special attention to the effect of government actions on the construction industry. The report also covered labor-management relations, safety and health conditions, federal regulations and laws promulgated in 1980 or proposed in 1981, and a brief outline of industry spending, material costs, wages, and fringe benefits.

One of the report's six sections reviewed research sponsored by OCIS. Research completed in 1980 focused on construction wage changes during the 1970's and compared wage movements during the period when wage and price controls were in effect with changes in pay scales when there were no controls.

OCIS directed and coordinated the activities of construction coordinating committees in Chicago, San Francisco, Kansas City, Boston, and Denver composed of representatives of labor, management, and government. As part of an effort to spread construction activity more evenly throughout the year, each committee published a bid calendar for government building projects in the area. The committees also sought to reduce seasonal and cyclical fluctuations in construction employment by studying and exchanging information on ways to enclose building sites and other techniques for minimizing the effects of bad weather on construction activity.

Administration and Management

The Office of Management (OM) negotiated computer contracts during the year to provide the same amount of support services furnished the previous year at a savings of more than \$1.6 million. LMSA also improved the quality and timeliness of the data used in its management information system by adding automated planning, budgeting, and review and analysis capabilities and by sending and receiving data at regional locations.

Employee performance was strengthened through the establishment of performance standards and the merit pay system required by the Civil Service Reform Act. Senior managers participated more than ever before in performance and financial planning reviews. Procedures for managing agency cash funds and for collecting debts were reviewed and revised. These efforts resulted in a significant reduction in outstanding debts.

Improved systems were established to control spending for nonpersonal service items including travel, equipment rentals and purchases, audiovisual services and subscriptions to periodicals. The first steps were taken to design a system to control and reduce telecommunications costs. Office space needs were also reviewed and redesigned resulting in a reduction of 4,300 square feet of space.

Procurement, property management, and general office service functions were consolidated as part of a general effort to maintain existing support services while reducing staff by almost 10 percent.

Bureau of International Labor Affairs

Major developments in the activities of the Bureau of International Labor Affairs (ILAB) in fiscal 1981 included participation in the interagency formulation and implementation of international economic policy and expansion of the program of the Labor Advisory Committee on Trade, as provided for in the Trade Agreements Act of 1979; initiation of efforts to strengthen, through greater involvement of the private sector, the U.S. appraisal of International Labor Organization (ILO) technical programs to help improve their effectiveness; preparation of several economic research studies for Congressional use; and further progress in achieving the goals of the U.S./Saudi Arabian Vocational Training and Construction Project (VOTRAKON).

Foreign Economic Policy

The Department was active in assuring proper consideration of U.S. workers' needs in respect to international economic policy. It participated in the interagency Trade Policy Committee structure on a variety of issues including implementation of nontariff codes, U.S. policies toward developing countries, investment policy, unfair import relief policy, and commodity agreements.

As part of the followup to the Multilateral Trade Negotiations (MTN) agreements, the Department participated in bilateral negotiations with several countries regarding the nontariff codes. Negotiations with Japan on government procurement led to an agreement on procedures for opening up the Nippon Telephone and Telegraph Company to foreign competition. The Department also helped formulate policy regarding Bulgaria's accession to the Subsidies Code and agreements with New Zealand and Australia relating to their acceptance of the Code. Bilateral consultations with several countries concerning their adoption of the Commercial Counterfeit Code led to an agreement, in principle, with three countries.

The Department participated in a review and helped formulate U.S. economic policy toward developing countries, with respect to aid, trade, and investment. It assisted in the interagency preparations for a summit in Cancun, Mexico, which considered the entire range of North-South issues. Administration efforts to deal with the economic and trade problems of the Caribbean included departmental participation in the review of various trade and investment options to promote economic development of the Caribbean Basin.

The Department continued its participation in the review of requests to modify the list of products eligible to receive duty-free treatment under the Generalized System of Preferences (GSP). For the first time, requests to graduate certain developing countries out of duty-free treatment for certain product categories were heard by the interagency committee.

Department staff assisted in the preparations for and attended the first meeting of the U.S.-Mexico Joint Commission on Commerce and Trade, held in Mexico City. The Commission addressed a wide range of trade issues, including the Mexican subsidy program, the Mexican Auto Decree, and GSP.

The Department helped formulate U.S. policy concerning foreign direct investment and transnational corporations. Interagency deliberations continued on how to deal with the adverse effects of investment incentives and performance requirements. In this context, the Department prepared papers on investment performance requirements which were considered at meetings of the General Agreement on Tariffs and Trade (GATT) and the Organization for Economic Cooperation and Development (OECD). The Department assisted in the U.S. followup to the codes of behavior for multinational enterprises that have been adopted by the OECD and the International Labor Organization (ILO). The Department was represented on the U.S. delegation to the United Nations Negotiations on a Code of Conduct for Transnational Corporations.

In fiscal 1981, the Department contributed to the formation of U.S. auto trade policy through its participation in the Trade Policy Staff Committee (TPSC) automotive task force, through its submissions to Congressional hearings, through the subsequent discussions of the Cabinet-level Trade Policy Committee (TPC), and through participation on negotiating teams with the Japanese. The Japanese subsequently decided to restrain voluntary exports of automobiles to the United States.

The Department took part in other bilateral discussions with such countries as Canada on U.S.-Canadian trade relations and with the European Community (EC) in the U.S.-EC High Level Consultations held in Brussels. Assistance was also given in the preparation of papers for the U.S.-Japan Subcabinet consultations held in Washington to discuss the U.S. trade deficit with Japan, MTN Code implementation, and reduction of Japanese trade and investment barriers and other issues.

The Department shared in the work of the President's Export Council and in five of the six subcommittees deal-

ing with export promotion, export expansion, East-West trade, GATT and MTN, and agriculture.

As a member of the U.S. Delegation to the OECD Steel Committee, the Department continued to assess steel industry modernization needs and to help develop long-term solutions to the problems of international steel trade. Specific attention was given to steel worker readjustment as part of industry modernization in the United States, Canada, and Europe.

The charter of the Steel Tripartite Advisory Committee was renewed. This management, labor, and government committee is co-chaired by the Secretaries of Labor and Commerce. ILAB provides the executive secretary and is responsible for management of the committee.

Import relief in the form of orderly marketing agreements (OMA's) covering nonrubber footwear (in effect since 1977 with Taiwan and the Republic of Korea) was terminated June 30, 1981. Until then, the department participated in consultations with the OMA countries about implementing their agreements, and took part in the monitoring of imports and nonrubber footwear to ensure that the Government's commitment on import levels was met. The Department also helped to monitor and to administer the revised program to provide relief for the domestic color television industry, following extension of the earlier relief granted the industry.

The Department was represented in multilateral and bilateral consultations concerning extension of the Arrangement Regarding International Trade in Textiles (Multi-Fiber Arrangement—MFA), a GATT instrument, which is scheduled to expire December 31, 1981. The Department also continued to have a part, within the framework of the MFA, on interagency teams which consulted with U.S. bilateral trading partners to resolve textile problems and to extend bilateral textile agreements—now totalling 24. A number of agreements were renegotiated with Mauritius.

In accordance with prior Administration commitments to the industry and to Congress, the Department continued to participate in consultation with our major suppliers to prevent surges in their textile and apparel exports to the United States.

The Labor Advisory Committee for Trade Negotiations and Trade Policy held its first plenary meeting under its amended charter on July 14, 1981. The Committee includes representatives from the AFL-CIO Headquarters staff and five AFL-CIO Departments, 45 AFL-CIO affiliated unions, and four independent unions. A Steering Subcommittee of the Labor Advisory Committee has been established. It meets monthly for consultations on a wide range of current trade and related issues.

Foreign Economic Research

An important ILAB activity is the analysis of the practical employment impacts of foreign economic decisions. ILAB contributes data and analyses on these issues necessary to the formation of policy. For the most part, these analyses provide quantitative estimates of the effects of policy decisions in the areas of international trade, investment and migration on the employment and earnings of U.S. workers. Such analyses are often the results of congressionally mandated studies, and sometimes result in con-

gressional testimony. Examples include the study of the economic effects on trade agreements among the countries of North America and the Caribbean Basin and the study of U.S. international competitiveness. An updating of the latter study, examining the causes of changes in competitiveness and the trade implications of these changes, was initiated in fiscal 1981. Information from the study is directly applicable to policy concerns about U.S. competitiveness and to the policy debate on reindustrialization in the United States.

Other ILAB studies also provide direct input to congressional investigations of international economic issues. Examples include the recently completed analyses of the trade and employment effects of granting most-favored nation status to the People's Republic of China (PRC) and a study of the effects of U.S. controls on exports to the Soviet Union. The first of these studies was published in the congressional hearings on the topic of trade with the PRC. ILAB was requested by the Joint Economic Committee to undertake the second study. The studies are part of a general program initiated by ILAB to examine U.S. trade with nonmarket economies.

During the year, the Bureau staff also undertook several other studies on important trade policy issues, including an analysis of the trade and employment effects of Mexican and Brazilian performance requirements for their automotive industries, of allowing the manufacturing clause of the U.S. copyright law to expire, of changing the U.S. Generalized System of Preferences as proposed in the Heinz-Moynihan legislation, and of continuing or initiating import protection for various U.S. industries under the "Escape Clause" of the Trade Act of 1974.

Research on immigration was focused by the submission and review of the final report of the Select Commission on Immigration and Refugee Policy, and by a comprehensive set of Administration proposals to revise U.S. immigration policy. In particular, ILAB contributed to analyses of the effects of a temporary foreign worker program and of streamlining the procedures for granting labor certification to immigrants. An economic study of labor shortages and immigration was completed in the spring of 1981.

With the Japanese Ministry of Labor the bureau has been conducting a cooperative research project that compares labor market adjustment policies and processes in the two countries. Field research was completed in the summer of 1981, consisting of on-site surveys of firms in five industries in Japan and the United States that have recently experienced major changes in employment. A final report is due in January 1982.

Contract research studies or reports were completed in fiscal 1981 on important policy matters, including the effects on U.S. labor of foreign nontariff barriers to trade, of migration, of multinational corporate investment abroad, and of the changing structure of U.S. comparative advantage.

Foreign Labor Affairs

New "Department-to-Ministry" relationships were initiated with Jamaica. As part of President Reagan's Caribbean Basin initiative, a Labor Department delegation met with the Jamaican Minister of Labor in Kingston and

agreed to a cooperative relationship between Jamaica and the United States in the labor field.

During fiscal 1981, Secretary Donovan received the United Kingdom Secretary of State for Employment and participated in the fifth meeting of the Copenhagen Group of Labor Ministers in Halifax, Canada. A jointly sponsored seminar on U.S. Labor-Management Relations was held in Tokyo to provide accurate information to Japanese investors and potential investors. Department of Labor delegations to Brazil and Mexico met with the Ministers of Labor of these countries to devise plans for continuing cooperation in areas of mutual concern. The Department's Bureau of Labor Statistics conducted two seminars in Mexico City. The Employment and Training, Labor-Management Services, and Occupational Safety and Health Administrations as well as the Bureau of Labor Statistics took part in further exchanges with Israel's Ministry of Labor and Social Affairs.

Because of curtailment of funds during the year, ILAB's publication program was terminated. Under this program, "labor profiles" were prepared for selected foreign countries as well as monographs on labor topics of international interest.

American Labor Attachés

The Departments of State and Labor completed a joint review of the Labor Attaché program and agreed to a series of measures to strengthen the Labor Attaché Corps. The two Departments held a conference in New Delhi for Foreign Service labor officers stationed in the Near East and Asia. Through the Board of the Foreign Service and the Board of Examiners, the Labor Department participated in the management of the Foreign Service during the transition resulting from the Foreign Service Act of 1980. The Department also participated in the Foreign Service promotion panels.

International Organizations

The Department continued to provide leadership for U.S. participation in the International Labor Organization (ILO). Deputy Under Secretary Robert W. Searby was designated by the President as the U.S. Representative to the ILO. Secretary Donovan headed the U.S. Delegation to the ILO's 1981 Conference. The Conference sharply criticized the U.S.S.R. for prohibiting free trade unions—the first time in history that the Conference as a whole has taken this step.

U.S. participation during this period was guided by the President's Committee on the ILO. Chaired by the Secretary of Labor, this Committee includes representatives from the Departments of State, Commerce, and the President's National Security Adviser, as well as the presidents of the AFL-CIO and the U.S. Council of the International Chamber of Commerce. An innovation was the convening of tripartite groups of experts from the organizations represented on the President's Committee to review ILO technical programs and support ways to make those programs more effective. Such meetings were convened to review ILO activities in energy, occupational safety and health, management training, and small enterprise development.

The Department was active in the OECD, where it is responsible for U.S. participation in the Manpower and Social Affairs Committee and its seven working parties.

International Labor Standards

The Department continued to work closely with the State Department and other agencies to address questions relating to the implementation of international labor standards, both in the United States and around the world. ILAB has also provided extensive background preparation on infringements of international labor standards to U.S. representatives attending ILO meetings. During the year the Department was involved with various economic and social issues related to U.N. negotiations and programs. Represented on the U.S. delegation to the 35th U.N. General Assembly, the Department actively participated in work on several economic development resolutions and in drafting the Convention on the Rights of Migrant Workers.

International Technical Cooperation

Primarily under funding provided by the Agency for International Development (AID), ILAB continued to provide technical cooperation to developing countries. During the past year, ILAB provided short-term diagnostic or technical assistance services to the following countries: Barbados, Thailand, Surinam, India, Kenya, the Philippines, Panama, St. Lucia, Dominica, and Jamaica. In addition, ILAB personnel or other experts recruited by the Bureau have been serving on long-term technical assistance assignments of 2 years or more in Bahrain, Egypt and Jamaica.

To satisfy AID's technical assistance requirements in such areas as skills training, skill and aptitude testing, labor market information, employment services operations, workmen's compensation, and manpower planning, the Bureau has recruited experts from American State and local governments, as well as the private sector. ILAB staff members working with AID in Washington have designed an Employment Planning and Generation Project for the Republic of Panama and have researched labor force opportunities for women in six Near Eastern countries.

The Saudi Arabian Vocational Training and Construction Project (VOTRAKON) continued to be ILAB's principal foreign-financed technical cooperation project.

Under this program, 71 long-term advisors and other 60 short-term specialists have served in Saudi Arabia during the first 5 years of the 9-year development effort. Funded entirely by the Saudi Government, this program includes the upgrading of all aspects of the Saudi vocational training program as well as construction of new training and related housing facilities.

Field testing of curriculum materials developed by the Saudis and U.S. advisors is being conducted for six occupational trades in Saudi Arabia and materials for two others are being produced under contract to San Jose State University.

An initial group of 89 Saudi Arabian trainees, who arrived in early fiscal 1980 to study at five U.S. institutions as instructor, instructor-trainer, administrator, on-the-job training, and instructional media development personnel, are scheduled to complete their 2-year programs in Oc-

tober 1981 and April 1982. The next group, consisting of approximately 40 trainees, all to be trained as instructors, will be arriving in October 1981. They, too, will receive 6 to 9 months of full-time English language training followed by 18 months of technical/professional training. These trainees come from and will be returning to key roles within the vocational training system operated by the General Organization for Technical Education and Vocational Training in Saudi Arabia.

The design of all 18 proposed vocational centers under the original VOTRAKON Project has been completed, and construction contracts were awarded for 14 sites. In addition, ground was broken for construction of the multi-million dollar Instructor Training Institute, scheduled to be completed in approximately 2 years. Responses were received from Saudi and/or joint venture architect engineer firms interested in prequalifying for the design of 11 additional projects in the Third Development Plan.

Among other foreign-financed programs, agreements for assistance have been negotiated with the governments of Brazil, Paraguay, and Bahrain. Other agreements are currently under negotiations with the governments of Kuwait, Qatar, and Nigeria.

U.S. foreign policy and international technical cooperation were enhanced through professional visits and training extended by the Department to international

visitors. Continuing its efforts to provide high-quality technical and professional training, ILAB programmed approximately 1,100 participants during the year. Working closely with the AFL-CIO, the American business community, and educational and training institutions, the Bureau offered services to 600 trade unionists and 500 technical and professional people. The program pursued foreign policy objectives of the American Government and enhanced the efforts of the Department of Labor's "Department-to-Ministry" Program.

In conjunction with and through financing by the International Communication Agency, the Bureau also conducted a series of informational seminars devoted to exchanges of information on employment training, employment creation, collective bargaining, safety in mining, and ergonomics. During the year, because of curtailment of funds, this program was terminated. The purposes of the seminar program were to explain the role of U.S. workers in the economic, political, and social affairs of America, to influence foreign audiences favorably toward the United States, and to contribute to international understanding of U.S. foreign policy. The seminars were presented in cooperation with foreign labor ministries, educational institutions, and governments in Spain, Brazil, Panama, and Honduras, and were held in the capital cities and then repeated in two or more industrial cities.

Office of the Solicitor

The workload for the Office of the Solicitor continued to grow during the 1981 fiscal year. Its 16 field offices received 16,689 cases for review and possible legal action, filed legal actions in 10,662 cases, presented the Department's case in 1,111 trials and administrative hearings, and issued 2,465 written opinions. The national office handled 425 appeals before the 11 courts of appeals; it also processed 183 appeals to the Occupational Safety and Health and Mine Safety and Health Review Commissions. In addition, the national office conducted substantial administrative and district court litigation under the Employee Retirement Income Security Act, various worker compensation and employee benefit laws, and Executive Order 11246. A new division, the Special Litigation Staff, was added to the Office of the Solicitor in fiscal year 1980 to handle the cases involving the Teamsters Central States, Southeast and Southwest Areas Pension Fund and Health and Welfare Fund. This division is unlike other divisions in the Solicitor's Office in that it has investigators and auditors as well as attorneys.

Legislation and Legal Counsel

The division was actively involved in a variety of legislative efforts during the fiscal year. The division worked closely with other Labor Department officials in drafting bills and related background materials, presenting the views of the Department on pending legislation, and providing technical assistance to congressional committees.

The division participated in the development and drafting of the "Unemployment Compensation Amendments of 1981." This proposal was transmitted to the Congress on March 10. The bill provided for changes in the basic unemployment compensation program, the Federal-State extended benefit program, and the special program for ex-service members. On March 28 the Department also submitted draft legislation that would significantly affect trade adjustment assistance for workers. Certain provisions of these two bills were incorporated into the Omnibus Budget Reconciliation Act of 1981.

In addition, the Department provided assistance to the Department of Justice in relation to the Omnibus Immigration Control Act, which the Attorney General transmitted to the Congress on October 20, 1981.

Several major legislative projects were carried out in connection with various workers' compensation programs administered by the Employment Standards Administration. A major reform of the Federal Employees' Compensation Act was transmitted to the Congress in June.

Legislation to restore the solvency of the Black Lung Disability Trust Fund through revenue increases and benefit adjustments was developed in close consultation with the affected parties and sent to the Congress at the close of the fiscal year. In these matters, the division played a significant role in the drafting of legislation, explanatory materials, and congressional testimony.

In fiscal year 1981, this division worked on the preparation and clearance of 49 statements on a wide range of issues to be delivered by Labor Department witnesses before congressional committees. For example, Labor Department officials testified on such important matters as the President's economic recovery program; reform of certain Federal workers' compensation programs; employment opportunities for older workers, youth and veterans; proposals to deal with illegal immigration; and improvements in the administration of various departmental programs.

The division also prepared more than 200 responses to congressional committees and the Office of Management and Budget on a broad spectrum of legislative proposals of interest to the Department.

In addition to these legislative activities, the division performed "house counsel" functions with respect to the Ethics in Government Act of 1978 as well as the other conflict-of-interest laws, orders, and regulations. The division counseled numerous departmental agencies, officials, and employees on financial disclosure requirements, the avoidance of potential conflicts of interest, and permissible postemployment activities.

The division was also very active in providing support to the Office of the Inspector General. Legal counsel was provided on questions involving criminal laws and procedure, audit and investigative matters, and organized crime and racketeering. The volume of this work has significantly increased as the Inspector General's Office has taken on major audits of various systems within the Department.

The division continued to provide important assistance in connection with the Department's implementation of the President's regulatory reform program. The division was instrumental in compiling the Department's semiannual regulatory agendas, which were published in October and April as required by the Regulatory Flexibility Act and Executive Order 12291. As required by the Regulatory Flexibility Act, the division also compiled the Department's Ten Year Review Schedule, published on June 30, 1981, for review of existing rules. Finally, the division provided ongoing legal counsel to help assure that the

regulatory mandates of the Paperwork Reduction Act, the Regulatory Flexibility Act, and Executive Order 12291 were successfully carried out.

Civil Rights

During the past year, the division has continued to be involved in litigation and regulatory efforts pursuant to the equal employment opportunity and affirmative action obligations placed on government contractors under Executive Order 11246, as amended; Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; Section 402 of the Vietnam Veterans Readjustment Assistance Act; and other civil rights laws.

The division actively participated in cases before the various U.S. courts of appeals and the federal district courts in addition to administrative forums. A number of court decisions were handed down, and, at the close of the fiscal year, the division was involved in the trial of one enforcement matter and several defensive matters as well as preparing for trial in another enforcement case. The division also assisted in the preparation of several proposed and final regulatory amendments.

In *Department of the Treasury and DOL v. Harris Bank and Trust Co.*, No. 78-OFCCP-2 (a case involving allegations under Executive Order 11246 of discrimination in a wide range of the bank's employment practices), on January 30, 1981, the Administrative Law Judge issued his recommended decision, finding that the bank had discriminated on the basis of race and sex. The ruling recommended seniority relief, special training programs, promotional opportunities and a formula backpay award. Both the bank and the Government have filed Exceptions to various aspects of the recommended order with the Secretary. At the close of the fiscal year, the Government's responses to the bank's Exceptions were still being prepared.

After a debarment order was issued by the Secretary, First Alabama Bank of Montgomery challenged the ability of the Office of Federal Contract Compliance Programs (OFCCP) to obtain supporting documentation during a compliance review. In an opinion entered on June 15, 1981, the U.S. District Court for the Northern District of Alabama ruled that the OFCCP's request was an unreasonable search under the Fourth Amendment and overturned the Secretary's Order debarring First Alabama from Federal contracts. *First Alabama Bank v. Donovan*, ____ F. Supp. ____, 26 FEP Cases 388 (N.D. Ala. 1981). The decision has been appealed.

In *U.S. v. Trucking Management Inc.*, 662 F.2d 36 809 (D.C. Cir. 1981), the Court of Appeals for the District of Columbia held that the Government could not successfully challenge a seniority system under Executive Order 11246 which would be immune from challenge under restrictive limitations favoring bona fide seniority systems in section 703(h) of Title VII of the Civil Rights Act of 1964 as amended (42 U.S.C. Section 2000e-2(h)).

Employment and Training Legal Services

During fiscal 1981 a substantial number of audit cases arising under the Comprehensive Employment and Training Act (CETA) were filed and proceeded through administrative hearings. This activity was largely the result of a concerted effort by the Employment and Training Administration and the Office of the Inspector General to

dispose of pending audits involving disallowed costs. The division provided legal advice and service to a task force created in the Employment and Training Administration to accelerate resolution of questioned grant and contract costs arising out of employment and training programs. The increase in the Department's auditing activity has resulted in an increase of activity at the informal resolution, hearing, review, and appellate court litigation stages. As the volume of cases increased, more cases were assigned to the regional offices for handling, where training courses, addressing the problems experienced in handling disallowed costs cases, were conducted for the staff.

Agreement was reached with New Hampshire officials on the implementation of the 1976 amendments to the Federal Unemployment Tax Act (FUTA), which extended unemployment insurance coverage to State and local government employees. The agreement concludes *New Hampshire v. Marshall*, 616 F.2d 240 (1st Cir. 1980), cert. denied, 101 S.Ct. 53 (1980).

A resolution to the questions raised by these amendments insofar as unemployment compensation protection for employees of church-related schools is concerned was effected by the Supreme Court's decision in *St. Martin Evangelical Lutheran Church v. South Dakota*, 101 S.Ct. 2142 (1981). The Court held that the amendments did not achieve coverage of church-related elementary and secondary schools that were operated by a church, but reserved the question of whether separately incorporated church-related schools were covered. The latter question is presented by *Grace Brethren Church v. California*, No. CV79-0093-MPP(KX) (C.D. Cal. April 3, 1981), petition for cert. filed sub nom., *United States v. Grace Brethren Church*, 50 U.S.L.W. 3045 (U.S. Aug. 18, 1981) (No. 81-228), in which the Supreme Court has accepted jurisdiction.

Administrative proceedings against 11 States were brought that could have affected the certification of the States under FUTA for 1981. All but one of the issues involved concerned the new work test for extended unemployment compensation or other 1980 amendments to the Federal-State Extended Unemployment Act of 1970. Five of the cases were successfully resolved before the certification date on October 31, 1981, and the other six cases were resolved later. As a result, all States were certified under FUTA for 1981.

The Fourth Circuit held that the Secretary's "adverse effect wage rate" applicable to temporary alien tobacco workers in Virginia was valid, and sustained the methodology adopted by the Secretary for establishing the wage rate. The ruling, which applies only to employers who seek to employ temporary foreign workers in agriculture, represented the first decision by the Fourth Circuit on this aspect of the temporary labor certification program under the Immigration and Nationality Act and reversed a contrary ruling by the district court in *Rowland v. Marshall*, 650 F.2d 28 (4th Cir. 1981).

Another ruling under the Immigration and Nationality Act, this one involving the admission of aliens on a permanent basis as immigrants, was rendered by the Second Circuit in *Ross v. Marshall*, 651 F.2d 846 (2d Cir. 1981). There, reversing the district court, the circuit sustained the Secretary's regulations requiring that all evidence must be entered into the record at the initial stages of the pro-

ceeding before a Department of Labor Certification Officer in order that the program can be administered efficiently, i.e., without administrative appeals for the purpose of introducing new evidence into the record.

The Government obtained a favorable ruling on the issue of impoundment in the companion cases of *Fontaine v. Donovan*, No. 81-1581 (D.C. Cir., July 2, 1981) and *West Central Missouri Rural Development Corp. v. Donovan*, No. 81-1563 (D.C. Cir., July 2, 1981). These cases presented a challenge to President Reagan's decision to defer and rescind certain CETA Public Service Employment funds as a part of his economic recovery program. Plaintiffs claimed that CETA was a mandatory spending statute, that "obligated" funds could not be impounded, and that the deferral and rescission were improper under the Impoundment Control Act. Both the district court and the court of appeals rejected these arguments.

On January 28, 1981, the Attorney General for the State of Oregon declared that the State's continued participation as a prime sponsor (grantee) under CETA violated certain provisions of the Oregon Constitution. Specifically, he reasoned that the acceptance by the State of full responsibility and liability for misuse of CETA funds by its subrecipients (various units of local government and private nonprofit organizations with whom the State contracts to provide employment and training services at the local level), constitutes the "lending of credit" and "assumption of debt" by the State, both of which are prohibited by the Oregon Constitution. His opinion threatened to disrupt continued provision of CETA services in Oregon and in other States with similar constitutional provisions. The division provided a legal analysis which was used as the basis for successful negotiations with State officials for continued operation of CETA programs in Oregon. The division also prepared a legal opinion stating that the use of CETA funds for the purchase of "errors and omission" insurance, which Oregon and other prime sponsors had perceived as an alternative to accepting liability for misuse of CETA funds, is not an allowable expense.

This division assisted the Division of Legislation and Legal Counsel in preparing the Administration's amendments to the Trade Act of 1974 and to the unemployment compensation-related provisions of the Social Security Act, the Internal Revenue Code (Federal Unemployment Tax Act), the Federal-State Extended Unemployment Compensation Act of 1970, and Section 8521 of Title 5, United States Code (unemployment compensation for ex-military personnel). These amendments were enacted as part of the Omnibus Budget Reconciliation Act of 1981.

Fair Labor Standards

During fiscal year 1981, there was variety of significant decisions under the Fair Labor Standards Act (FLSA), the Age Discrimination in Employment Act (ADEA), and the Equal Pay Act. (The ADEA and Equal Pay Act cases discussed below were pending as of July 1, 1979, when general enforcement responsibility for the Act was transferred to the Equal Employment Opportunity Commission; under an agreement with the EEOC, the Department of Labor continued to handle these cases.)

The District Court for the District of Columbia, in a series of decisions, found systemwide FLSA violations by the U.S. Postal Service. Extensive resources have also been

devoted to issues raised by the Supreme Court's *National League of Cities* decision under the FLSA. In regard to regulatory matters, the division provided legal services in connection with the Department's published proposal to amend its FLSA regulation that prohibits industrial homework in seven specified industries.

In several cases, the courts have reached decisions that clarify specific procedural issues. In *Barrentine v. Arkansas-Best Freight Sys., Inc.*, 101 S.Ct. 1437 (1981), the Supreme Court held, in a case in which the Department participated as *amicus curiae*, that employees' FLSA claims are not barred by prior arbitration of such claims under the grievance procedures in a collective bargaining agreement. While *Barrentine* concerned only employees' private FLSA suits, its holding indicates that arbitration of wage decisions would not bar the Department from initiating suit to correct unlawful wage practices, where the Department otherwise deemed it proper to do so.

In *Webster et al. v. Bechtel, Inc.*, 621 P.2d 890 (Alas. 1980), the Supreme Court of Alaska held that the FLSA does not preempt the Alaska Wage and Hour Act, which affords employees higher wage standards than the Federal FLSA. As the division had urged in an *amicus curiae* brief, the court held that Congress had not intended for the FLSA to preempt State wage statutes and that an employer's obligations under the Alaska Act did not conflict with those under the FLSA even though the two statutes differ in significant respects. The *Webster* case is therefore an important precedent affecting other State wage and hour laws whose provisions are more protective than the FLSA's.

In *Donovan v. University of Texas at El Paso*, 643 F.2d 1201 (5th Cir. 1981), the Fifth Circuit upheld the Department's position that suits brought by the Department for injunctive relief (including restitution of back wages) under section 17 of the FLSA need not be certified as class actions. The decision maintains the Department's flexibility in using section 17 suits to recover unpaid compensation due employees and to secure employers' compliance with the Act. In addition, because employees cannot opt out of a section 17 suit, the decision benefits employers by assuring them that the validity of wage practices can be determined for all affected employees in a single action brought by the Secretary.

In *Donovan v. Mehlenbacher*, 652 F.2d 228 (2d Cir. 1981), the Second Circuit held that, when the Wage and Hour Administrator issues a reasonable administrative subpoena for records required to be kept under the FLSA, the Department does not have to pay the employer's costs of complying with the subpoena, and the subpoena does not violate the employer's Fourth and Fifth Amendment rights. Under the "required records" doctrine, the court explained, records required under the FLSA have a "public aspect" and are therefore not private papers for constitutional purposes.

In the final ADEA case briefed by the Department (as *amicus curiae*), *Mistretta et al. v. Sandia Corp.*, 639 F.2d 588 (10th Cir. 1980), the Tenth Circuit held that, in ADEA suits brought by employees where at least one employee notifies the State agency of the classwide nature of the alleged discrimination, such notice satisfies as to all affected employees the ADEA requirement that employee plaintiffs notify appropriate State agencies of their claims

before commencing suit. The court also held that monetary losses resulting from an age-based policy of less frequent salary increases for older employees are compensable under the ADEA.

In *Laffey v. Northwest Airlines Inc.*, 642 F.2d 578 (D.C. Cir. 1980), the District of Columbia Circuit approved as "indisputably reasonable" the Department's published regulation stating that, for purposes of the FLSA, wages include the cost of lodging and other facilities and services paid for by the employer, where such facilities benefit primarily the employee. On the basis of this regulation, the court held, as the Department had urged as *amicus curiae*, that single room accommodations and uniform cleaning allowances provided for male, but not for female, flight attendants were wages for equal pay purposes. The court concluded that these items benefited primarily the employee because they were manifestly for the convenience of the male flight attendants and that, had they benefited primarily the employer, the airline would have provided them for females as well.

Regarding the Act's coverage of enterprises engaged in construction, in *Donovan v. S & L Development Co.*, 647 F.2d 14 (9th Cir. 1981), the Ninth Circuit held that the FLSA covers an enterprise that employs construction workers for short-term projects even where the enterprise (such as a real estate development company) engages principally in activities other than construction. As to overtime exemptions, in *Marshall v. Union Pacific Motor Freight Co.*, 650 F.2d 1085 (9th Cir. 1981), the division obtained from the Ninth Circuit a decision upholding the Department's position that trucking company dispatchers are not covered by the Motor Carrier Act, and hence do not fall within the FLSA overtime exemption for such employees.

In other courts of appeals cases, the division has continued to present the Department's position on issues arising under *National League of Cities v. Usery*, 426 U.S. 833 (1976), in which the Supreme Court held that the Constitution prohibits the application of the FLSA minimum wage and overtime provisions to the integral operations of State and municipal governments in performing traditional governmental functions. In a highly significant case briefed by the division, *Richland County Ass'n for Retarded Citizens v. Donovan*, 641 F.2d 1361 (9th Cir. 1981), the Ninth Circuit held that *National League* prohibits the application of the FLSA to a private nonprofit corporation operating a residential home for the mentally retarded under a State contract.

At the trial level, the Department has received several significant rulings in a case being tried by the division, *Donovan v. U.S. Postal Service*, No. 78-602 (D.D.C., Aug. 5, 1981). This case is the most massive and complex suit ever brought by the Department under the FLSA, involving thousands of employees and many millions of dollars in potential back wages.

The District Court for the District of Columbia has ruled thus far that three Postal Service pay practices violated the FLSA. First, the regular wage rate from which FLSA overtime pay is calculated was improperly computed for postal workers as a result of omitting various wage premiums paid to employees in addition to their basic contract rate. Second, the Postal Service improperly failed to pay for overtime work recorded on employees' timecards but subsequently disallowed because it had not been for-

mally authorized ("suffer or permit" time). The court has ordered a full accounting, under the Department's supervision, to calculate the sums due employees.

Third, the court determined that the FLSA also required that wages be paid for time spent by postal workers in memorizing required postal route distribution systems (letter sorting "schemes"). The Department is now developing a proposal for determining the back wages due as a result of these violations. The division is still in the process of submitting for the court's decision all other issues remaining in the case.

The division also provided extensive legal advice in connection with the Department's published proposal to rescind its regulation under the FLSA prohibiting industrial homework in seven specified industries, including participation at hearings in both Vermont and Washington, D.C.; the preparation of congressional testimony given by the Deputy Under Secretary for Employment Standards; and the performance of related tasks.

General Legal Services

In the international area, the largest single activity was the division's legal assistance to the Office of Trade Adjustment Assistance (OTAA). This included defending the Department in the U.S. courts of appeals in cases where adjustment assistance had been denied, assisting the Department of Justice with respect to cases in the U.S. Court of International Trade, reviewing the Department's administrative reconsiderations, enforcing subpoenas in the federal district courts, and drafting proposed legislation and amendments to regulations.

The division's attorneys advised the Bureau of International Labor Affairs (ILAB) on matters arising out of interagency and international discussions involving trade and other international issues as they affect the interests of workers in the United States. Specifically, attorneys provided legal counsel to ILAB concerning the General Agreement on Tariffs and Trade (GATT), the Organization for Economic Cooperation and Development (OECD), and the interpretation and application of the Trade Agreements Act of 1979, Pub. L. No. 96-39, Stat. 144 (codified in scattered sections of 19 and 26 U.S.C.).

The division also assisted ILAB on legal issues with respect to the International Labor Organization (ILO), by providing advice concerning the United States' participation in the Organization and drafting responses to ILO questionnaires concerning the degree to which the law and practice of the United States conformed to specific conventions or recommendations.

This fiscal year, there were several significant decisions involving the Farm Labor Contractor Registration Act. The Third Circuit, in upholding the Department's interpretation of section 4(c) of the Act, held that the term "in full force and effect" requires that the contractor's certificate of registration authorize each and every activity performed or to be performed by such contractor.

Mountain Brooks Orchards, Inc. v. Marshall, 640 F.2d 454 (9th Cir. 1981). In a subpoena enforcement action the Second Circuit in *Donovan v. Mehlenbacher*, No. 80-6129 (2d Cir., June 26, 1981), upheld the Secretary's right to enter on the property of the appellant and conduct an investigation to determine compliance with the Act. The Ninth Circuit, in *Donovan v. Santa Clara Produce, Inc.* and *Donovan v. Paramount Citrus*, Nos. 79-3185 and 79-

3192 (9th Cir., June 29, 1981), further amplified its earlier opinions on the application of the exemption contained in section 3(b)(2) of the Act. In both cases the court held that the exemption from registration contained in section 3(b)(2) of the Act would not apply unless the defendants were engaged in covered activities "solely" for their own operation.

An additional statutory construction question involving the relationship between sections 3(b)(2) and 3(b)(3) of the Act was resolved by the Ninth Circuit in *Donovan v. Heringer Ranches, Inc.*, 650 F.2d 1152 (9th Cir. 1981). In that case the court of appeals held that each exemption under the Act must be treated separately and the fact that a corporate farmer might be exempt from registration under the Act did not automatically exempt all corporate employees from its registration requirements.

The Court of Appeals for the Tenth Circuit, in *Valles v. Donovan*, Case No. 80-1568 (10th Cir., May 27, 1980), is considering the issue of whether persons applying for a certificate of registration are entitled to a hearing prior to an initial determination denying the certificate.

The Supreme Court issued an important decision under the Davis-Bacon Act in *Universities Research Association v. Coutu*, 101 S.Ct. 1451 (1981). There, the Court held that employees do not have an implied private action against a contractor for back wages under a contract where Davis-Bacon is not in the contract and where it has been administratively determined that the contract is not subject to the Act.

The Department has concluded a thorough analysis and reconsideration of the regulations under the Davis-Bacon and Service Contract Acts which were issued in January 1981. Major proposed revisions in the Davis-Bacon regulations included changes in the method of determination of the prevailing wage, the addition of provisions permitting increased use of helpers and other semiskilled classifications, and elimination of the requirement for weekly submission of certified payrolls. Major proposed revisions in the Service Contract regulations included issuance of wage determinations for each potential locality where a contract may be performed, several provisions narrowing coverage of the Act, exemptions for contracts for service of automated data processing and similar equipment and for research and development, limitations on the application of predecessor collective bargaining agreements, and provisions for increased employment of helpers and trainees.

The division performed a number of legal counsel and litigation functions in connection with the Freedom of Information Act (FOIA), the Privacy Act, and the Administrative Procedure Act. In the area of FOIA litigation, we prevailed in the case of *Brinkerhoff v. Labor*, No. 79-1568 (N.D. Tex., July 1, 1981). In that case the court ruled that documents related to conciliation procedures were entitled to be protected as prelitigation documents even where conciliation is mandatory and litigation does not follow in the majority of cases. This decision significantly expanded the coverage of exemption 7, which protects investigatory records.

There was a significant increase in the FOIA and Privacy Act administrative appeals decisions completed in the last year with over 400 such decisions having been prepared. The number of new cases continued at the rate of 50 per month.

The division also represented the Department in all defensive employment relations litigation. These cases included labor relations, equal employment opportunity, and disciplinary cases that were brought before arbitrators, administrative agencies, and the federal courts.

The division continued to perform its liaison function in connection with the Office of the Federal Register (OFR). A major task was to supervise departmental compliance with the OFR's new requirement that all agencies prepare a list of index terms for each of its parts in the *Code of Federal Regulations*.

Late in the year, it was announced that this division, as part of a general reorganization, would merge with four of the other divisions. Those units of the division that handled labor standards and farm labor contractor matters will merge with Fair Labor Standards; those handling administrative procedures and labor relations, with Legislation and Legal Counsel. International labor matters and government contracts will be handled by Labor Management Laws and Employment and Training Legal Services, respectively.

Labor-Management Laws

Appellate litigation under the provisions of the Landrum-Griffin Act resulted in several rulings favorable to the Department. The division was also instrumental in the negotiation of two settlement agreements involving national union elections. In the area of veterans' reemployment rights, the First and Fifth Circuits rendered important precedential decisions. Additionally, regulations were published amending the eligibility criteria for the Redwood Employee Protection Program.

Under the Labor-Management Reporting and Disclosure Act (LMRDA), the Secretary received favorable appellate decisions upholding his subpoena powers in *Donovan v. Perkel et al.*, No. 80-4529 (9th Cir. 1981) and in *Donovan v. Stevens People and Friends for Freedom* and *Donovan v. J.P. Stevens Education Committee et al.*, 108 LRRM 2024 (4th Cir. 1981). In the *Perkel* case, the general investigative powers of the Secretary were upheld, and in the *Stevens* cases the circuit court reversed a decision of the district court, which quashed the administrative subpoenas in their entirety because of the possible chilling effect on the appellees' First Amendment rights. The court concluded that, aside from the names of non-supervisory employees which are protected from disclosure pursuant to Section 603(b) of the Act, the subpoenas for lists of contributors were constitutionally valid.

This office gave legal assistance in the negotiation of two settlement agreements providing for the supervision of the national elections of two major unions, the Firefighters and the American Federation of Government Employees (AFGE). Both agreements call for the supervision of the next regular elections of officers in 1982. However, the AFGE settlement was challenged in the District Court for the District of Columbia. In *Local 1219, American Federation of Government Employees et al.*, No. 81-1914 (D.C. Cir. 1981), the court of appeals vacated two orders of the district court which set aside a settlement agreement between AFGE and the Director, Labor-Management Enforcement Standards. The lower court had held that the decision to settle by agreeing to supervise the next regular election of national officers was arbitrary and capricious and did not constitute a remedy. The case was remanded to

have the Director file a statement giving his reasons for having accepted the settlement.

The area of veterans' reemployment rights was again active. In *Bunnell v. New England Teamsters and Trucking Industry Pension Fund et al.*, 655 Fed.2d 451 (1st Cir. 1981), the court decided that a pension fund, once it has assumed the function of paying pensions, can be considered an employer and be held primarily liable to include military service in its credit computation. In addition, *Hembree v. Georgia Power Company*, 637 F.2d 423 (5th Cir. 1981), is the first appellate decision dealing with the reemployment of a disabled veteran. There, the court upheld the Secretary's position that an employer must offer to a disabled veteran, who is unable to perform the duties of his former position, a comparable position of like seniority, status, and pay to the position he is no longer able to fill.

The first two appellate decisions under the Redwood National Park Expansion Act affirmed the Secretary's decisions in *Noble v. Marshall*, 650 F.2d 1058 (9th Cir. 1981) and *Lanning v. Marshall*, 650 F.2d 1055 (9th Cir. 1981). These cases both concerned the proper interpretation of "affected employee" and the 5-year period of creditable service required for long-term benefits.

The regulations pertaining to applicant eligibility under the Redwood Employee Protection Program were amended on June 9, 1981. These amended regulations established new criteria for determining eligibility for employees laid off after September 30, 1980.

Mine Safety and Health

The Division of Mine Safety and Health was actively involved during the year in promulgating major new standards and regulations, furthering efforts at regulatory reform, and establishing important precedents in both administrative and court litigation. The division also supported the mine safety and health enforcement program and analyzed legislative initiatives which would have far-reaching effects on the Department's role in the regulation of the mining industry.

The division provided counsel to the Mine Safety and Health Administration (MSHA) during a number of important rulemaking proceedings. The division analyzed comments and coordinated the promulgation on December 5, 1980, of two final rules concerning respirable dust in coal mines. One of the final rules significantly revised the procedures for measuring the concentration of respirable dust to which surface miners are exposed by reducing by one-half the number of samples required to be collected by operators and focusing the dust monitoring program on selected work areas, thus increasing the level of health protection while reducing the cost to the mining industry.

Aimed at increasing the level of health protection provided to coal miners who have medical evidence of developing black lung disease, the other rule improved protection against undesirable working hours, wages and work assignments associated with the job transfer provisions of the initial program. The new rule included the right to retain the same rate of pay received in the previous position plus any wage increases accruing to the new work classification and, if assigned to a different position where respirable dust also exceeds the permissible level, the right to work in an existing job on the same shift worked prior

to the transfer. Improvement in the effectiveness of the respirable dust program is expected to reduce expenditures associated with the Department's black lung disability compensation program. Both rules became effective without change following review pursuant to the President's Executive Order in early 1981.

The division played a major role in MSHA's ongoing standards review project. Planned as a comprehensive reevaluation of the basic safety and health standards applicable to metal and nonmetal mining and milling operations, the review was designed primarily to achieve the goal of regulatory relief by reducing unnecessary reporting and recordkeeping requirements, deleting irrelevant standards, and clarifying and consolidating existing regulations, consistent with the requirements of Executive Order 12291 and related Department initiatives. The project included consideration of the Regulatory Flexibility Act and the Paperwork Reduction Act.

The division was instrumental in the formulation, review, and drafting of a proposal to revise the rule governing the assessment of civil penalties under the Federal Mine Safety and Health Act of 1977 (Mine Act). The proposal, published November 7, 1980, made significant changes in the existing rule, including the establishment of provisions for (1) a predetermined "minimum penalty" for violation; (2) the reduction of the amount of assessed penalty for violations that are timely abated or abated through "good faith" efforts of the operator; (3) a formula for assessments of penalties against independent contractors; and (4) special treatment under the gravity criterion for violations of health standards.

In addition to these rulemaking activities, the division assisted MSHA in drafting enforcement guidelines for several final rules that became effective during the year, e.g., the rule requiring that all underground mines have the rescue capability to deal with emergencies involving trapped miners and the rule requiring coal mine operators to make self-contained self-rescue devices (SCSR's) available to all miners while underground.

The division also assisted MSHA in developing major revisions to guidelines for determining when violations are "significant and substantial" under the Mine Act. The new guidelines were drafted to be consistent with the April 7, 1981 Federal Mine Safety and Health Review Commission decision in *Secretary of Labor, MSHA v. Cement Division, National Gypsum Company*, 3 FMSHRC 822 (April 7, 1981).

The division participated in developing a number of memoranda of understanding with coal mine safety and health agencies in the Eastern and Midwestern States to ensure that agencies which provide mine rescue and recovery services to underground mine operators are prepared to respond quickly and competently in the event of a mine emergency.

The division reviewed and commented on legislative proposals in a variety of subject areas, including regulatory reform, prevention of fraud and abuse in agency programs, and the collection of debts owed the Federal Government. The division also took an active part in a departmental task force reviewing a number of proposals to amend the Mine Act. These proposals would make a number of major changes in the Act, including the exemption from MSHA jurisdiction of certain nonmetal

minerals and surface construction activities as well as the revision of key provisions relating to enforcement and administration.

A collection unit, organized in April 1980 to collect final civil penalties assessed under the Mine Act and to help eliminate the backlog of such cases in the Nashville and Philadelphia regions, continued in operation. In addition to the 1,674 already backlogged, in fiscal 1981, the collection unit received 4,175 new cases for action. Penalties amounting to \$180,856.00 were collected in some 357 cases. These penalties were paid in response to demand letters mailed to the mine operators before the filing of suit, as well as in formal collection actions filed with the various U.S. district courts. Seven hundred and three MSHA cases (81 civil actions) were filed for collection in federal district courts. The collection unit worked closely with U.S. attorneys to develop effective procedures and guidelines to handle both new and backlogged civil penalty collection cases in the Eastern District of Kentucky, the Southern District of West Virginia, and the Western District of Virginia.

During fiscal year 1981, over 2,300 new administrative proceedings were initiated. Final dispositions were reached in over 3,400 cases.

Important administrative law judge decisions issued during the year included *Secretary v. Youghiogheny and Ohio Coal Co.*, 3 FMSHRC 185 (Jan. 14, 1981), which held that 30 CFR 75.1100.2(c) required waterlines along haulage tracks used to haul men and equipment, as well as those used to haul coal; *Youngstown Mines Corporation v. Secretary*, 3 FMSHRC 1793 (July 14, 1981), which held that Section 104(d)(2) orders could be modified to take the place of Section 104(d)(1) citations and orders; *Secretary v. Eddie Coal Co.*, 3 FMSHRC 1348 (May 29, 1981), which held that the failure to use additional insulation where a cable passed through a permanent stopping violated 30 CFR 75.517, and *Mathies Coal Co. v. Secretary*, 3 FMSHRC 1998 (August 26, 1981), which held that a man-trip cage is required to be protected under 30 CFR 75.1725. On February 25, 1981, a \$36,400.00 settlement between Scotia Coal Company and the Department of Labor was approved, putting to rest 43 of the 71 citations issued as a result of MSHA's investigation of the 1976 Scotia Mine Disaster. Still remaining are administrative cases concerning 28 orders of withdrawal, dealing with conditions or practices related to the causes and effects of the March 9, 1976 explosion.

Pursuant to the powers and responsibilities vested in him by the Mine Act to protect miners who had been discharged or otherwise discriminated against by reason of their assertion of health and safety rights, the Secretary initiated over 100 actions in fiscal year 1981 on behalf of such miners. In addition, four discharged miners were temporarily reinstated pending completion of their cases, and several other discharged miners were voluntarily returned to their jobs after successful negotiations between the Department and the operators.

In other Federal litigation, departmental trial attorneys brought over 30 injunctive actions to prevent mine operators from denying mine inspectors entry into mines or from continuing operations in violation of the MSHA withdrawal order. The division also defended the Department in 10 actions in federal district courts.

Together with their civil and administrative litigation function, the division's attorneys also assisted the Department of Justice in preparing criminal litigation against several companies and individuals alleged to have willfully violated the Mine Act. During the fiscal year, these efforts resulted in 8 convictions and 12 indictments and informations being filed.

A number of significant cases were decided by the Federal Mine Safety and Health Review Commission during the year. In particular, the Commission further defined the criteria for determining whether a miner has been improperly discriminated against under the Mine Act because of safety complaints or concerns. In *Secretary of Labor on behalf of David Pasula v. Consolidated Coal Co.*, 2 FMSHRC 2786 (October 14, 1980), and *Secretary of Labor ex rel. Thomas Robinette v. United Castle Coal Co.*, 3 FMSHRC 803 (April 3, 1981), the Commission not only ruled that a miner has a right to refuse to work if he or she possesses a reasonable belief that a safety hazard is present, but also spelled out the allocation of evidentiary burdens to be applied in determining whether the discrimination provisions of the Mine Act have been violated. The operator's appeal in the former case was still pending in the Third Circuit (No. 80-2600) at the end of the year.

The Commission also upheld the constitutionality of statutory provisions authorizing MSHA to impose civil penalties against corporate agents who "knowingly" authorize, order, or carry out violations of health and safety requirements. *Secretary of Labor v. Kenny Richardson*, 3 FMSHRC 8 (January 19, 1981). The corporate agent's petition for review was still pending in the Sixth Circuit (No. 81-3060) at the end of the year.

In a major decision, the Commission interpreted the Act's provisions dealing with violations which "significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard" within the meaning of the Act and which therefore may trigger the imposition of more serious sanctions. *Secretary of Labor v. Cement Division, National Gypsum Co.*, 3 FMSHRC 822 (April 7, 1981).

During 1981 the Supreme Court resolved one of the recurring issues under the Mine Act—the validity of the Act's warrantless search provision. On direct appeal from a district court decision holding that the provision violates the Fourth Amendment, the Supreme Court ruled that the warrantless search provision is constitutional. *Donovan v. Dewey*, 101 Sup. Ct. 2534 (1981).

The division prevailed in all 21 cases decided in the courts of appeals this year. Much of the court of appeals litigation concerned the regulatory requirement that all underground coal mine operators provide their miners with self-contained self-rescue devices (SCSR's), which are devices capable of supplying oxygen to miners in an emergency situation. The division successfully defended MSHA's decision to defer the implementation date of the regulation for 6 months from December 1980 to June 1981 because of problems in completing field tests of the devices. *Council of the Southern Mountains, Inc. v. Donovan*, 653 F.2d 573 (D.C. Cir. 1981). In a subsequent case, the Third Circuit upheld MSHA's refusal to stay the June 1981 implementation date of the SCSR regulation and to grant an operator's petition for a new rulemaking proceeding. *Consolidation Coal Co. v. Donovan*, No. 81-

2016 (3rd Cir., Aug. 13, 1981).

In other significant decisions, courts of appeals upheld MSHA's interim policy of citing mine operators for violations committed by their independent contractors, *Old Ben Coal Co. v. Federal Mine Safety and Health Review Commission*, No. 79-2367 (D.C. Cir., Dec. 9, 1981), and MSHA's requirement that, where two or more Federal mine inspectors each simultaneously conduct separate parts of an authorized mine inspection, a miners' representative is entitled to accompany each inspector without suffering any loss of pay. *Magma Copper Co. v. Secretary of Labor*, 645 F.2d 694 (9th Cir. 1981). A petition to review the latter decision was still pending in the Supreme Court at the end of the year (No. 80-183). In addition, industry representatives have petitioned for review of MSHA's regulations revising the definition of respirable dust and substantially revamping the procedures for sampling respirable dust in underground coal mines. *American Mining Congress v. Marshall*, Nos. 80-1581 and 80-2166 (10th Cir., filed June 6, 1980).

Occupational Safety and Health

The division assisted the Occupational Safety and Health Administration (OSHA) in issuing a number of final standards during the fiscal year. A final standard mandating comprehensive hearing conservation programs for approximately 5.1 million employees in general industry was issued. In addition, an electrical standard was promulgated, which placed the relevant requirements of the National Electrical Code into the text of the OSHA regulations, and a final standard on the guarding of low-pitched roof perimeters during the performance of built-up roofing work was issued. The standard covering access to employee exposure and medical records was extended to cover the construction industry.

Pursuant to a court remand in *United Steel Workers of America v. Marshall*, 647 F.2d 1189 (D.C. Cir. 1980), cert. denied, 101 Sup. Ct. 3148 (1981), a supplemental statement of reasons involving reconsideration of the feasibility of the lead standard for some 46 industries was prepared, but the effective date of the statement was delayed pending disposition of various petitions for reconsideration. Also, as a result of the lead standard, a proposal was issued to allow specific forms of qualitative fit testing to measure the adequacy of fit of negative pressure respirators for use with lead exposure and hearings were held. New blood lead trigger levels for the medical removal protection provisions of the lead standard went into effect, and petitions for a stay of the medical removal provisions for primary and secondary smelters were denied. However, interim variances for those lead smelting and battery manufacturing plants that established the need for relief were granted.

The cancer policy standard was revised to conform with the Supreme Court decision in *Industrial Union Department v. American Petroleum Institute*, 448 U.S. 607 (1980). In addition, a list of substances that might be candidates for further scientific review under the cancer policy standard was published for comment.

Information was requested and informal public meetings were held on pesticide hazards during the manufacturing and formulating process. Also discussed were the possibilities of having a vertical standard covering cargo handling and related activities at marine terminals.

Informal public meetings were held on lockout/tagout requirements to prevent injuries caused by failure of equipment to reactivate and to prevent reactivation of movable electrically energized or pressurized equipment or systems involving hazardous materials while employees perform work on such equipment.

An advance notice of proposed rulemaking was issued and comments invited on confined spaces as well as on a complete revision of the hazardous materials standard. Comments were also requested on how to increase the cost effectiveness of the cotton dust standard. In addition, an advance notice of proposed rulemaking was issued concerning the possible reconsideration of the lead standard.

The division provided legal services in connection with rulemaking activities on tunnels (underground operations) and possible additional requirements.

The Supreme Court decided a significant case arising under the OSH Act in 1981. In *American Textile Mfrs. Inst. et al. v. Donovan*, 101 S. Ct. 2478 (1981), the Court affirmed in part and vacated in part the D.C. Circuit's decision upholding the Secretary's standard regulating occupational exposure to cotton dust. The Court ruled that §6(b)(5) of the Act directs the Secretary to regulate toxic substances so as to "most adequately assure . . . that no employee will suffer material impairment of health, limited only by the extent to which this is capable of being done," and not by the extent to which such regulation is cost beneficial. The Court further held that §3(8) of the Act does not incorporate a cost-benefit requirement for standards regulating toxic substances, and that to interpret §3(8) as requiring a cost-benefit analysis in such cases would conflict with the balance struck by Congress in §6(b)(5) that material health impairment must be prevented "to the extent feasible." The Court also ruled that the court of appeals had properly found that substantial evidence supported the Secretary's findings underlying the cotton dust regulation. The Court vacated, however, the provision of the standard guaranteeing the wages of employees who must be transferred to other positions due to their inability to wear respirators. Without deciding whether the Secretary has the authority to impose such a requirement on industry, the Court vacated the provision on the grounds that the Secretary had failed to explain adequately how such a wage guarantee was related to occupational health. In addition, the Supreme Court declined review of a court of appeals decision upholding the validity of OSHA's lead standard in *United Steel Workers of America v. Marshall*, 647 F.2d 1189 (D.C. Cir. 1980), cert. denied, 101 Sup. Ct. 3148 (1981).

A petition for review of the ALJ's decision was filed in about 160 of the cases pending before the Occupational Safety and Health Review Commission in Washington. Some of the novel issues raised included whether an employer violates OSHA's general duty clause by exposing employees to a known animal carcinogen and whether an employer who places employees' medical removal protection (MRP) payments in an escrow fund rather than paying the employees willfully violates the MRP provisions of the lead standard.

Other activities included the review of about 15 fatality inspections for possible criminal prosecution under Section 17(e) of the OSH Act. Four of these cases were referred to the Justice Department with a recommendation that the

employer be prosecuted.

State plan activities increased and centered on the continuing litigation of the benchmarks case and the settlement of two proposed plan withdrawal actions. The "State Plans" case, *AFL-CIO v. Marshall*, 570 F.2d 1030 (D.C. Cir., 1978) requires OSHA to establish benchmarks for State staffing levels. The Department's petition for modification of the district court's order allowing States a longer timeframe in which to attain the benchmarks for health enforcement personnel was denied. However, a revision to the court order was permitted providing for periodic reassessment of the available supply of industrial hygienists. With respect to State staffing benchmarks under that case, OSHA provided advance notice that a revision to the benchmarks would be published for public comment.

State plan withdrawal actions in two States were resolved. Four petitions submitted by the Oil, Chemical and Atomic Workers, Fairfax County, Virginia, the Virginia AFL-CIO, and the Building and Construction Trades Department of the AFL-CIO were denied. The Assistant Secretary determined that withdrawal of the Virginia Plan was not warranted, and the district court action filed by the Commonwealth of Virginia to enjoin OSHA from initiating proceedings to withdraw approval of its plan was settled accordingly. Similarly, OSHA's formal proceedings to withdraw Indiana's safety and health plan were terminated after a review of the evidence revealed that the action was not supportable.

Plan Benefits Security Division

During the fiscal year, the Plan Benefits Security Division actively litigated an increasing number of cases. Several significant decisions resulted, aimed at establishing basic precedent under the fiduciary responsibility provisions of the Employee Retirement Income Security Act of 1974 (ERISA). Regulatory efforts concentrated on providing guidance on the interpretation of key statutory terms, reducing paperwork burdens, and facilitating investment transactions by financial institutions that act on behalf of employee benefit plans.

The Supreme Court handed down one of the most significant decisions involving ERISA thus far in *NLRB v. Amax Coal Co.*, Nos. 80-289 and 80-692 (June 29, 1981). The Court held that trustees of collectively bargained multiemployer pension and welfare plans were not "collective bargaining representatives" of the employers or unions which appointed them. Consistent with the brief prepared with assistance from the Department and submitted by the NLRB, the Court held that plan trustees owe absolute loyalty to plan participants and beneficiaries and must disregard whatever loyalty they may feel to those who appointed them.

The Department's interpretation of the legality of using employee benefit plans to collect union dues was sustained in *Donovan v. Davis*, No. 80-G-169 (W.D. Mich., June 30, 1981). The Department alleged that the trustees of the Michigan Carpenters Council Holiday and Vacation Plan had violated ERISA's fiduciary provisions by allowing monthly checkoffs from the plan for union dues while participants and beneficiaries were only entitled to receive their benefits annually. The court held that this practice constituted a prohibited transaction under ERISA and also

violated ERISA's command that all fiduciaries act solely in the interest of plan participants and beneficiaries.

The Department also obtained an important decision involving procedures which plan trustees must follow before committing plans to significant investments. In *Marshall v. Glass/Metal Association and Glaziers and Glassworkers Pension Plan*, No. 80-327 (D. Haw. 1980), the Department alleged that the trustees of a pension plan had violated their fiduciary duties by committing the plan to lend nearly one-quarter of its assets to a company that sought to develop a time-sharing project in Hawaii. The court held that a commitment of such a large proportion of the plan's assets to a single loan subjected the plan to undue risk and violated ERISA's requirement to diversify investments. The court further held that the trustees had failed to follow the procedures a prudent lender would use, thereby failing to recognize that the commitment exposed the plan to greater risk without the possibility of higher return to compensate for such risk. The court concluded that the trustees had not acted prudently as required by ERISA and enjoined disbursement of plan assets pursuant to the loan commitment.

In addition to this litigation the Department negotiated consent orders in two important cases. In *Donovan v. Sackman*, No. 79-Civ-838 (S.D.N.Y.), the Department had alleged that the trustees of the Local 1115 Prepaid Legal Service Care Plan had violated ERISA provisions in connection with the hiring of a son of one of the trustees to provide legal services. The settlement provided for restitution of \$150,000 and appointment of a neutral trustee to assist in a restructuring of the plan to include guidelines for consideration of a new method for providing legal services, the hiring of a new service provider and the determination of the compensation to be paid to the service provider.

In *Marshall v. Carr*, No. A81-017 (D. Alaska), the Department filed suit against present and former fiduciaries of the Alaska Teamsters pension and welfare plans, alleging that they had caused the plans to engage in numerous imprudent and prohibited transactions, including transactions that benefited the union sponsor. A partial consent order was entered in which the defendants were enjoined from future violations of ERISA and ordered to retain an independent investment manager to handle certain pension plan assets as well as to decrease the pension plan's high concentration of investment in Alaskan real estate.

The Department has important issues pending in the district courts in a number of cases to obtain restitution for thousands of plan participants and beneficiaries. One such case involves the alleged illegal receipt of commissions by pension plan investment advisors from parties dealing with the plans. In another case, the Department sued the trustees of the International Union of Operating Engineers Local 675 Pension Plan, alleging violations in their decision to design and construct an office building to be leased to the sponsoring union as well as in their practice of making loans to union members at below-market interest rates. Two other cases involved alleged illegal conduct by service providers to employee benefit plans. In one case, the Department alleged that a firm which served as administrator of several hundred plans had obtained illegal commissions on the sale of insurance policies to the plans, had diverted and concealed administrative fees in excess of the contracts it had with the plans, and had used plan assets to

build up its own business. In the other case, the Department alleged that a union official had caused 32 plans with which he was affiliated to hire service providers that resulted in a financial benefit to him. The Department asserted that the defendant, through this conduct, had acted as a fiduciary and in breach of the duties imposed on him by ERISA.

In the regulatory area, the Department published several proposed and final regulations designed to provide guidance concerning the operation of statutory provisions and to help reduce reporting burdens. Included among these were regulations such as the interpretation of the transitional rules in section 414(c) of ERISA, the exemption from various reporting and disclosure provisions for plans that offer membership in a qualified Health Maintenance Organization, the alternative method of compliance for nonmodel SEP's (simplified employee pensions), the revisions in reporting for plans whose assets are held in master trusts, and the revision conforming the summary annual report (SAR) regulations to the recent adoption by the Department of triennial reporting for small plans. The Department published several class exemptions for certain transactions involving financial institutions that make investment decisions for plans or provide investment management or advisory services. Designed to reflect current business practices while containing conditions to protect the interests of plan participants, the proposed exemptions would apply to transactions involving the lending of portfolio securities by plans, the investment by plans in certain short-term securities, the acquisition of interests in mortgage pools and the management and operation of such pools, as well as transactions by an insurance company separate account that funds guaranteed investment contracts. The Department also proposed class exemptions to permit the payment to a fiduciary of compensation for securities lending services, to broaden the scope of the exemption for transactions involving guaranteed investment contracts, and to permit insurance companies to provide discretionary asset management services to plans.

Another significant regulatory development was the publication of final regulations describing the circumstances under which a plan can suspend a retiree's benefits. Section 203(a)(3)(B) of ERISA permits a multiemployer plan to suspend benefits for such period as an employee is employed in the same industry, same trade or craft, and same geographic area covered by the plan, and permits all other plans to suspend benefits if the employee is employed by an employer who maintains the plan under which the benefits are already being paid. The regulations describe the term "employed" and permit suspension of benefits under circumstances that reflect a departmental effort to strike a balance among the competing interests of the plans, the general intent of ERISA to protect the rights of plan participants and beneficiaries to their vested accrued benefits, the interests of younger workers and the needs of older workers regarding postretirement employment. Subsequent to publication, however, the Department proposed several technical amendments to the regulation and deferred its effective date until final action could be taken on the amendments.

Special Litigation Staff

During fiscal 1981 the Office of the Solicitor completed the staffing of the Special Litigation Staff (SLS), which was

created to litigate cases arising under the Employee Retirement Income Security Act of 1974 (ERISA), involving the Central States Southeast and Southwest Areas Pension and Health and Welfare Funds (the Funds). This litigation, which focuses primarily upon two cases, *Donovan v. Fitzsimmons* (pension fund case) and *Donovan v. Robbins* (health and welfare fund case), is directed toward recovering for the beneficiaries losses resulting from alleged breaches of fiduciary duties by the Funds' trustees and obtaining such other equitable relief as may be appropriate.

In the course of discovery in *Donovan v. Fitzsimmons*, No. 78-C-342 (N.D. Ill.), the district court made several significant rulings in favor of the Department which may have a substantial impact upon the outcome of this case as well as other ERISA litigation instituted by the Department. In the first of these rulings, the court held that the Department could disclose to private counsel, who have brought parallel litigation on behalf of beneficiaries of the pension fund, documents prepared by departmental employees in anticipation of the litigation without waiving any work product privilege as to the defendants. In another ruling, the district court held that, when the Department brings an action under ERISA to recover losses from trustees which have resulted from alleged fiduciary breaches, all documents that the trustees may have considered or had access to in exercising their fiduciary duties must be produced. The Fund or its trustees may not refuse to produce such documents, even if they reflect communications between the Fund and its counsel or attorney work product that has been disclosed only to the trustees. The ruling, in effect, prevents trustee defendants in the present case and in other ERISA cases brought by the Department from insulating their decisions as fiduciaries from scrutiny by seeking the advice of counsel and then asserting that their communications with counsel are privileged. Both of these decisions are on appeal to the U. S. Court of Appeals for the Seventh Circuit.

During this fiscal year, discovery in *Donovan v. Robbins*, No. 78-C-4075 (N.D. Ill.), began after the Department won its appeal from an adverse summary judgment.

During the course of discovery, an intervening defendant, Amalgamated Insurance Services, Inc., moved to restrict the Department's ability to transmit discovery information to the Department of Justice in accordance with section 506 of ERISA. Although the motion was rejected, the court entered a protective order requiring the Department to document the transfer of documents after the fact.

In addition, in *Donovan v. Nellis*, MCA-81-0245 (N.D. Fla.), the SLS filed suit against the present trustees of the Pension Fund and, in *Shenker v. Robbins*, LV 80-188 RDF (D. Nev.), and *I.J.K. v. Robbins*, LV 80-186 RDF (D. Nev.), intervened in litigation involving the Pension Fund.

Division of Employee Benefits

Litigation under the federally administered workers' compensation statutes increased substantially during the year and resulted in the issuance of several precedent-setting decisions.

A total of 11,010 contested cases arising under the Black Lung Benefits Act were referred to the Office of Administrative Law Judges for hearing, and over 2,100 appeals were filed with the Benefits Review Board (BRB).

In addition, 115 petitions for review were filed with the various U. S. courts of appeals. A number of appellate decisions were issued interpreting and applying the statute and regulations.

The Court of Appeals for the Sixth Circuit upheld the Department's position that, although the BRB had the authority to establish criteria for determining whether medical evidence sufficiently distinguishes the effects of cigarette smoking from pneumoconiosis, the Board exceeded its review authority by deciding whether the evidence in *Peabody Coal Co. v. Director, OWCP and Blevins*, 644 F.2d 886 (1981), satisfied those criteria.

In *Amigo Smokeless Coal Co. v. Director, OWCP*, 642 F.2d 68 (1981), the Fourth Circuit held that a person employed as a laboratory technician collecting, processing, and analyzing coal samples was a "miner" within the meaning of the Black Lung Benefits Act. The court, upholding the BRB's status and situs test, held that the claimant's frequent trips to the mine and tippie constituted work in or around a coal mine, and that his duties were part of the coal preparation process. The Fourth Circuit, in *Hughes v. Heyl & Patterson, Inc.*, 647 F.2d 452 (1981), sustained our position that a coal mine construction company was a coal mine operator within the meaning of the Black Lung Benefits Act of 1972 and therefore liable for the payment of black lung benefits.

On April 24, 1981, the Court of Appeals for the Fourth Circuit followed an earlier D.C. Circuit decision in upholding the Department's interpretation of sections 203(b)(3) and 428 of the Federal Mine Safety and Health Act of 1977. These sections provide, respectively, pay protection for miners who are transferred to less dusty work because of pneumoconiosis and a right of action for alleged discrimination on account of the presence of the disease. The court, rejecting the plaintiff's argument that he was entitled to receive all raises due to miners in the job classification he held prior to the transfer, ruled that he was entitled to receive only the same dollar amount he received prior to his transfer. *Matala v. Marshall*, 647 F.2d 427 (4th Cir. 1981).

On December 10, 1980, the BRB issued a decision in seven consolidated cases holding that coal mine operators were not responsible for paying benefits in any claims approved by the Social Security Administration under the review provisions of the 1977 amendments to the Act. According to the Board's majority opinion, the Black Lung Disability Trust Fund is responsible for the payment of these claims. This and subsequent decisions have been appealed, and the issue is presently pending before the Third, Fourth, Fifth, Sixth, and Seventh Circuits. The Third Circuit, on October 23, 1981, upheld the BRB's decision. *Director v. Republic Steel Corp.*, No. 81-1105 through 81-1111. A petition for rehearing is pending.

During fiscal year 1981, appellate litigation before the BRB continued. It primarily involved coal mine operator challenges to the statutory and regulatory presumptions, designed to assist claimants in establishing their entitlement to benefits, as well as to the regulatory provisions, describing how the presumptions may be rebutted. The constitutionality of section 411(c)(5) of the Act, which provides that survivors of miners who were employed in the mines for 25 years before June 30, 1971, and who died before March 1, 1978, are eligible for benefits unless it is established that the miner was neither totally nor partially

disabled by pneumoconiosis at the time of death, is at issue before the Third Circuit in *U.S. Steel Corporation v. Gaudiano and Director, OWCP* (No. 81-2229).

In a February 6, 1981 decision, the BRB held that a coal mine operator could not rely on an X-ray rereading conducted at the request of the Office of Workers' Compensation Programs (OWCP), where section 413(b) of the Black Lung Benefits Act precludes OWCP from using such report in adjudicating a claim. *Tobias v. Republic Steel Corp.*, 2 BLR 1-1277 (1981). A subsequent appeal to the Third Circuit was withdrawn. In a related matter, *Compensation Department of District Five, U.M.W.A. v. Donovan et al.*, C.A. No. 80-1970 (W.D. Pa. 1981), the district court, concluding that it did not have jurisdiction, dismissed an action brought to enjoin the Department from continuing its practice of rereading X-rays submitted by claimants under the Black Lung Benefits Act. An appeal to the Third Circuit is pending.

In a significant decision issued by the U.S. District Court for the District of Columbia, the court dismissed an action challenging the administration of the Black Lung Program. *National Coal Association v. Marshall et al.* (D.D.C., March 23, 1981).

Significant decisions were also rendered under the Longshoremen's and Harbor Workers' Compensation Act. In *PEPCO v. Director, OWCP*, 449 U.S. 268 (1980), the Supreme Court held that persons whose injuries resulted in an impairment listed in the schedule under "permanent partial disability" cannot be compensated under other provisions of the Act for loss of wage earning capacity.

A favorable decision was rendered by the Fifth Circuit in *Holiday v. Todd Shipyards Corp.*, 654 F.2d 415 (1981). The court held that the Special Fund established by section 44 of the Longshoremen's Act could not be held liable for the payment of a claimant's attorney fees. In reaching this conclusion the Fifth Circuit concurred with the earlier decision of the Ninth Circuit in *Director, OWCP v. Robertson*, 625 F.2d 873 (1980). In *Holiday* the court also accepted our position that a claimant was not entitled to annual adjustments to his compensation while temporarily totally disabled, but, upon a determination that his total disability had become permanent, the claimant's compensation rate should be increased to reflect the intervening percentage increases.

On April 24, 1981, the First Circuit joined the District of Columbia Circuit (*Hastings v. Earth Satellite Corp.*, 628 F.2d 85, cert. denied, 449 U.S. 905) and the Fifth Circuit (*Avondale Shipyards, Inc. v. Vinson*, 623 F.2d 1117 (1980)), in holding that the 1972 repeal of section 14(m) of the Longshoremen's Act, which imposed a \$24,000 limitation on claims other than for total disability, was to be applied retroactively to cover pre-1972 injuries. *Argonaut Insurance Company v. Director, OWCP*, 646 F.2d 710 (1981).

In *Hullinghorst Industries, Inc. v. Carroll*, 650 F.2d 750 (1981), the Fifth Circuit held that employee status under the Act may be based either upon the maritime nature of the claimant's activity at the time of his injury or upon the maritime nature of his employment as a whole. The court held that the erection of a scaffolding for repair of a shipbuilding pier was a covered activity. The Second Circuit, in *Arbeeny v. McRoberts Protection Agency et al.*, 624 F.2d 672 (1981), held that the petitioners whose sum-

mary duties as pier guards were to ensure the protection of cargo on the pier, dock, and adjacent areas of marine terminals against theft, pilferage, vandalism, and fire, satisfied the status test under section 2(3) of the Longshoremen's Act.

On December 10, 1980, the Fifth Circuit reaffirmed its earlier decision in *Texports Stevedore Company v. Winchester*, 554 F.2d 245, and held by a 15 to 8 vote that a worker injured in a gear room some five blocks from the gate of the nearest dock was injured in a covered situs. 632 F.2d 504 (1980). The majority opinion noted that the statute does not require that a situs of the injury be used exclusively for maritime purposes but only that the area be customarily used for significant maritime activity. The Supreme Court denied certiorari in the case.

In *Mississippi Coast Marine Inc. v. Bosarge*, 637 F.2d 994 (5th Cir. 1981), the court for the first time reached the merits of the question whether the amended Longshoremen's Act applies to the recreational boating industry. The court held that "the amendatory provisions of the LHWCA are applicable to recreational boat builders and small pleasure craft marinas, even where the work is performed solely upon [small recreational] vessels" and declared the building and repair of vessels no less "fundamental[ly] maritime" because of the size or intended use of the vessels.

In *Marine Concrete, Inc. v. Director, OWCP*, 645 F.2d 484 (5th Cir. 1981), the court held that an ALJ may not approve a settlement of medical benefits under §8(i)(B), such authority being reserved solely to the Secretary of Labor.

In *Pearce v. Director, OWCP*, 647 F.2d 716 (7th Cir. 1981), the court held, *inter alia*, that the parties were entitled to a formal hearing on an application for commutation of benefits under §14(j) of the Longshoremen's Act.

Several significant decisions were issued during the year under the Federal Tort Claims Act. The U. S. Court of Appeals for the Fifth Circuit reversed a \$700,000 judgment awarded by the U. S. District Court for the Eastern District of Texas in *Gill v. United States*, 641 F.2d 195 (1981). In that case, plaintiff had been awarded FECA benefits, and the United States contended that FECA was the exclusive remedy for the injury. The district court ruled that the FECA award was a cynical sham and awarded damages in tort. The Fifth Circuit reversed, stating that even if the district court was correct, the tort action is barred by FECA, and that the Secretary of Labor's decision that FECA applies is not judicially reviewable.

A favorable decision was rendered in *Jacqueline Miller et al. v. United States*, C.A. No. 80-2521 (E.D. Pa., June 1, 1981), where plaintiffs sought to recover damages from the United States resulting from the death of a passenger in a vehicle provided to Impact Services Corp. as excess property by the Labor Department's Manpower Administration (now the Employment and Training Administration). The court concluded, based on its review of the applicable rules and regulations, that (1) the property officer did not have responsibility for ensuring that the vehicle was properly inspected, (2) the responsibility for complying with State inspection laws rests with the grantee Impact, who was not an agent of the United States, and (3) the failure of the Government to establish an inspection program was a policy decision that fell within the discretionary function exception to the Federal Tort Claims Act.

On April 24, 1981, the U.S. District Court for the Northern District of Alabama granted the Government's motion for summary judgment in *Key v. United States*, C.A. No. 80-G-0504-S (N.D. Ala. 1981), a wrongful death action brought against the United States as the result of the death of a miner. In granting the motion for summary judgment, the court stated that the mine operator, not the Government, had the statutory duty to the miner.

The U. S. District Court for the Eastern District of Pennsylvania granted the Government's motion for summary judgment in *Hume v. United States*, C.A. No. 77-375 (E.D. Pa., June 15, 1981). There, the Government had been sued in tort for alleged negligent statutory and regulatory enforcement by OSHA because, prior to the accident, the premises in question had never been inspected. The Court ruled that: (1) the OSH Act does not grant a private right of action against the United States; (2) the OSH Act does not impose an obligation on the United States to inspect every worksite; and (3) the promulgation of rules and regulations under the OSH Act and the selection of enforcement procedures are "discretionary functions" within the meaning of 28 U.S.C. 2680(a), and therefore, there can be no liability on the United States.

In *School District of the City of Allentown v. Marshall*, 657 F.2d 16 (3d Cir., 1981), the Third Circuit, reversing a decision of the Secretary issued under the employee protection provisions of the Toxic Substances Control Act, held that the 30-day period specified for the filing of complaints with the Secretary may be tolled only in very limited situations. The court concluded that the period should be tolled only when: (1) the defendant actively misled the plaintiff; (2) the plaintiff was in some extraordinary way prevented from exercising his rights, or (3) the plaintiff's timely complaint was mistakenly filed on the wrong form. Finding that none of these exceptions applied, the court set aside the Secretary's Order.

A favorable decision was issued on July 2, 1981, by the Sixth Circuit in *Ostrowski v. U.S. Department of Labor*, 653 F.2d 229. At issue was whether Michigan's "no fault" automobile insurance system, which limits injured plaintiffs to recovery for noneconomic losses (pain and suffering), prohibits the United States from obtaining reimbursement out of the third party recovery for economic benefits paid under the FECA. The court of appeals, agreeing with the district court, held that the State law did not affect the right of the Government to recoup its disbursements from any damages the injured employee received as a result of the third party claim.

A very significant decision was issued by the district court in *Stringer v. Bolger* Case No. C-2-80-514 (S.D. Ohio, June 10, 1981), where plaintiff, on constitutional grounds, challenged actions of the OWCP and certain Labor Department and Postal Service officials in determining that he was no longer totally disabled within the meaning of the Federal Employees' Compensation Act. The court granted the Government's motion to dismiss, holding that section 8128(b) precludes a court from considering constitutional challenges to actions taken by the OWCP under the FECA. In addition, the court held that it had no jurisdiction to review the Secretary's authority under section 8123 to order a claimant to submit to physical examinations as frequently as may be reasonably required to determine the claimant's eligibility for compensation. An appeal to the Sixth Circuit is pending.

Policy, Evaluation and Research

The Office of the Assistant Secretary for Policy, Evaluation and Research (ASPER) provided the statistical model that served as the basis for CETA Performance Standards, a major accomplishment of the Department during fiscal year 1981. The formal process of establishing such standards was led by ASPER and ETA's newly created Office of Management Assistance. An Advisory Committee, composed of representatives from ASPER, ETA, prime sponsors, Congress, and public interest groups, designed the system of standards. A technical workgroup, similarly composed, provided technical support. ASPER contributed technical analysis and reports, as well as other technical support to both the Advisory Committee and the workgroup, and provided the in-house computer support required by the project. In May 1981, a performance benchmarking system based on statistical models of past performance was put into place.

ASPER assisted in the development of plans to phase out the Employment Opportunities Pilot Project (EOPP). EOPP was a field test of an employment training alternative to welfare operated by 14 prime sponsors throughout the Nation. During fiscal 1981 the program design of EOPP was modified to emphasize job search activities and the PSE component of the test was eliminated. ASPER also developed a revised research plan to reflect the modified program design. In addition, ASPER redesigned the evaluation of the EOPP. The revised evaluation, called the Job Search Assistance Research Project, will concentrate on measuring the effects of efforts to place welfare recipients in unsubsidized jobs.

ASPER prepared a staff paper on the effects of the UI work test, continued development of a UI simulation model, and provided technical support to the unemployment insurance service in the development of the Continuous Wage and Benefit History (CWBH) data program. The UI simulation model was used to predict State by State UI exhaustion rates and to estimate the costs of proposed changes to the UI system. ASPER also prepared a program solicitation for UI research on the impact of the UI system on workers and labor markets.

ASPER staff worked with ETA staff in preparing an options paper for revising the Trade Adjustment Assistance (TAA) program, and subsequently participated in developing TAA program regulations. ASPER staff also worked with ETA in preparing an analysis of the problem of long-term unemployment among experienced workers.

ASPER designed, implemented, and analyzed a con-

gressionally mandated experiment with wage vouchers for welfare recipients. The experiment tested two wage voucher variants—tax credits and direct employer subsidies—against regular Employment Service placement activities. The results suggest that, for this population, the Employment Service achieves a significantly higher placement rate than that obtained with either form of wage vouchers.

In collaboration with the Treasury Department, ASPER prepared a congressionally mandated report on the Targeted Jobs Tax Credit and the New Jobs Tax Credit.

ASPER provided analytical support to several departmental agencies and study commissions, among them: the Minimum Wage Study Commission, the Employment Standards Administration, the President's Commission on Pension Policy, the Labor Management Standards Administration, the Social Security Trustees, and the Bureau of International Labor Affairs.

ASPER implemented and tested computer simulation models of Social Security and private pensions capable of performing long-range analyses of policy changes in the public and private retirement system. Estimates from the models were used to estimate the longer run impact of eliminating mandatory retirement on the labor force participation of older males. The Employment Standards Administration (ESA) used these estimates in preparing a report to Congress.

ASPER continued work on a number of research projects dealing with worker health and safety. Most of these projects were designed to give more specific information on what happens to workers who become disabled because of health problems caused by exposure to asbestos or cotton dust. This work was designed to overcome some of the problems found in trying to estimate occupational disease outcomes from general surveys of the disabled by focusing on those who had been diagnosed as having work-related problems by medical specialists. A second set of research projects carried out during the year dealt with examining the possible effects of OSHA and MSHA regulations on the productivity of three specific industries: foundries, asbestos production, and underground coal mining.

ASPER has also worked closely with ESA and SOL in the development of the Administration's legislative proposals to deal with each of the Department's three workers' compensation programs—the Longshoremen's and Harbor Workers' Compensation Act, the Federal Employees' Compensation Act, and the Black Lung Act.

ASPER worked with the Employment Standards Administration (ESA) and the Office of Management and Budget to design a project to estimate the impact of the "prevailing wage" provisions in the Davis-Bacon Act on Federal construction costs.

ASPER worked with ESA to design a project to develop quantifiable EEO goals for the Office of Federal Contracts Compliance Programs. In fiscal 1982, ESA will continue an in-house examination of the labor-market status of EEO target groups with existing data.

ASPER provided macroeconomic analytical support for the Office of the Secretary for the purposes of testimony before Congress and the Secretary's participation in Cabinet Councils. Analytical support was also provided regarding Chrysler loan guarantees. ASPER continued to monitor progress on an interagency research project dealing with industry-specific effects of alternative Federal policies designed to improve productivity. The work was completed at the end of calendar year 1981.

ASPER provided the analytical support in preparing economic analyses of major regulations issued in the Department, in particular, Davis-Bacon, Service Contract, and Affirmative Action requirements for Federal contractors; eligibility criteria for suspension of pension benefits of multiemployer plans under ERISA; occupational noise exposure; and workplace hazard communication. ASPER also prepared the Regulatory Calendars for the Department and provided support on the economics of Supreme Court briefs on cotton dust.

During fiscal 1981, ASPER committed approximately \$372,000 for contractual research activities. Labor market and productivity growth studies accounted for the largest portion of fiscal 1981 obligations, totalling \$120,526. The largest single project was a contract of \$60,000 on productivity growth in the United States.

The second largest portion of research funds, totalling \$76,870, was obligated in the area of occupational safety and health.

Office of the Assistant Secretary for Administration and Management

Overall cost reduction efforts and implementation of the Department's Performance Appraisal system, as required by the Civil Service Reform Act (CSRA) of 1978, dominated activities in the Office of the Assistant Secretary for Administration and Management during the year.

OASAM continued to improve financial policies and controls, including the Federal Procurement Data System and the Federal Assistance Awards Data System. Travel practices and policies were strengthened, particularly with regard to the use of city-pair air travel and per diem and other allowances. Firmer control was also instituted over sensitive procurements such as that of management consulting services.

Employment ceiling controls on a Full-time Equivalency basis were established as a component of the Automated Position Control System, which is being used in the budget process to manage actual employment in relation to financeable staff years, authorized positions, and the special requirements for Senior Executive Service (SES) and General Service (GS) positions under the Civil Service Reform Act.

In the payroll and accounting area, the Department successfully implemented the new Federal Employee Group Health Insurance benefits program for all employees and the Electronic Funds Transfer system for the automated deposit of employee paychecks. Plans were made to decentralize payroll input and editing for National Office components and to automate both the information and billing requirements of the decentralized Unemployment Compensation for ex-Federal Employees process as mandated by the 1980 Reconciliation Act.

As required by the CSRA, the Department designed and the Office of Personnel Management subsequently approved the performance appraisal system for all employees. Negotiations, where required, were completed with the employee unions. Orientation training was provided to 1,700 managers and 6,900 bargaining unit employees on the provisions of, and their responsibilities under the performance appraisal systems which represented one of the most extensive training initiatives ever undertaken in DOL.

Also in accordance with the CSRA, new regulations on adverse actions and actions based on unacceptable performance were developed and negotiated with the unions.

A study was conducted to evaluate the effectiveness of the Department's SES performance appraisal system. After the first complete cycle, most of the managers interviewed were satisfied with their performance ratings and believed that their own, as well as their unit's performance

had improved under the system.

Another major personnel focus was on providing the framework for an orderly reduction-in-force (RIF) process. DOL regulations were revised to conform with changes in Office of Personnel Management RIF regulations.

A significant redesign of the DOL's basic training program for supervisors was completed with the development of an orientation program and a program of core training for new supervisors. The modular design of the core training includes 26 topics to be taught by DOL training and subject matter specialists. A Management Development program was designed to address the need for the development of high potential GS 12 to 14 managers and professionals. These activities, combined with professional and managerial seminar offerings, are part of a total effort to increase the skills of DOL supervisors and professional employees.

Significant cost avoidance and reductions were realized in the areas of supply, property, and space management. Consolidation of the personal property and forms and publications warehouses resulted in a generous saving of Standard Level Users Charges. Through implementation of improved procedures and closer administration of the laborer and moving services contract, additional costs were avoided and improved productivity attained.

OASAM embarked on a program to reduce DOL space holdings and associated rental costs: a space realignment plan was developed for the National Office that will result in rental cost avoidance of \$760,000 annually. In addition, policy statements to agency administrative officers reemphasized the critical need to reduce requirements and conserve rental costs.

During fiscal 1981, the Department of Labor Library completed its full conversion and implementation of the new international Library of Congress cataloging code (AACR2). Major sections of the card catalog were revised to accommodate groups of cards under the new heading. A special collection of materials on interviewing skills, resume writing and careers was established with the objective of assisting employees affected by anticipated reductions in force.

In contract administration special procedures were developed for the processing and monitoring of multiple-user contracts to avoid budget overruns; a system was devised to streamline the invoice process for prompt payment discounts. Closer tracking of contracts, especially the more complex automated data processing contracts, has

helped DOL program agencies accomplish their missions more economically.

A study of OASAM's in-house computer center, carried out in accordance with the guidance provided in OMB Circular A-76, was completed. A result of the study was a determination to close the computer center, which was successfully accomplished by the end of the third quarter.

OASAM's Office of Labor-Management Relations was in almost constant negotiation with the two major collective bargaining agents representing the Department's employees. The bargaining covered a variety of subjects, the two most important of which stemmed from the accretion of Mine Safety and Health Administration employees into existing collective bargaining units, and the other pertaining to performance appraisal systems required by the Civil Service Reform Act.

The Safety and Occupational Health Program for DOL employees made significant progress toward its goal of providing a safe and healthful environment. A computerized accident reporting system instituted last year is proving to be a success as evidenced by the increasing number of accidents reported by DOL supervisors (1,400 in fiscal 1981). As more information is available on employee accident experience, a program of accident prevention will become more successful. In-depth analysis will be possible, and positive corrective actions can be initiated. The program to educate DOL employees in a variety of health areas was expanded. Alcohol and drug abuse, cancer and diabetes, sickle cell anemia and heart disease are just some of the ongoing programs presented and made available for DOL employees.

As part of the continuing effort to reduce costs and improve quality of services, OASAM staff have been exploring methods to tap the brain power of the true experts on the work to be done—the workers themselves. Assistance is being provided to innovative managers who want to involve their employees in a structured procedure for solving problems, reducing costs, and improving service.

Efforts to control and reduce paperwork burdens imposed on the public were accelerated. The Assistant Secretary for Administration and Management was designated "Senior Official" with responsibility for implementing the Paperwork Reduction Act of 1980. Progress was made on two fronts. First, a reduction of 27 percent was achieved in those reporting areas that had been covered under the Federal Reports Act. Second, the span of control was greatly increased to include recordkeeping requirements and reports that previously were exempted and not included in the clearance system. Furthermore, paperwork implications of proposed regulations are now being considered in the regulatory review process.

An Office of Civil Rights (OCR) was established in OASAM with responsibility for enforcing title VI of the Civil Rights Act of 1964 and similar nondiscrimination

statutes in programs receiving or benefitting from financial assistance from the Department. Heretofore, responsibility for enforcement of nondiscrimination requirements in DOL grant programs had been delegated to ETA's Office of Investigations and Compliance because most of the Department's grants were for ETA programs.

With the establishment of OCR, the Department centralized its nondiscrimination enforcement efforts and expanded coverage to include not only ETA grant programs, but those administered by MSHA, OSHA, and ESA as well. The establishment of OCR provides for a comprehensive, independent, and uniformly administered program reflecting departmental priorities for enforcing nondiscrimination requirements in all DOL grant programs.

With respect to internal DOL equal employment opportunity programs, in spite of fiscal 1981 budget and program reductions, the Department continued to make substantial progress in increasing the number of professional and nonprofessional level minority and women employees. This increase is attributed to aggressive affirmative recruitment measures and supporting activities of the Federal Women's Hispanic Employment Programs.

The regional OASAM components also made noteworthy progress in budget control and cost reduction, and provided guidance to serviced agencies regarding continuing efforts to successfully implement the CSRA of 1978.

Financial management controls were implemented in the areas of travel and requisitions. To effectively strengthen controls over Government Transportation Requests (GTR), one region designed a GTR Accountability Report system for departmental use. The system, upon completion of the software package by yet another region, will allow complete control and accountability of a GTR from the date of issuance and use by an employee through the processing of payment and entry of data into the accounting system.

In its efforts to demonstrate the exercise of conservative management of travel funds, one regional OASAM took the leadership role in initiating and coordinating with GSA and the airline industry the establishment of a Scheduled Airline Traffic Office (SATO) whose function is to advise travelers of the most economical flight options available.

Another regional OASAM designed a control and accountability system to improve the control over purchases made by the Bureau of Labor Statistics (BLS) from the Government Printing Office. The initial request will be tracked through the system until the material is received and payment is made, and the system will also encompass the automatic processing of data into the accounting system.

Yet another OASAM region developed comprehensive accident reporting and corrective action procedures which were adopted for nationwide use.

Women's Bureau

In fiscal 1981, the Women's Bureau focused on cooperative working relationships with other Department of Labor agencies and with the private sector. Emphasis was placed on identifying existing resources at the State and local government levels and in the private sector that could be used to improve employment options and opportunities for women workers. The Bureau also continued to study and provide technical assistance on such issues as child care, pay equity, alternative work patterns, new technologies, and occupational safety and health. All of these have significant impact on women both in their jobs and in managing their family responsibilities. Over 100,000 requests for information or publications from individuals and groups were answered during the year.

Improving Work Options and Opportunities

Opening apprenticeship opportunities to women has been a major focus in the Women's Bureau for a number of years. In order to increase women's access to highly competitive well-paid apprenticeable jobs, the Bureau planned and completed the first stage of a Women in Apprenticeship Training Initiative. Regional coordinators were selected to be trained on how to use the training package developed by the Women's Bureau. In fiscal 1982, the coordinators will hold training sessions in each region with employers, unions, program operators, CETA prime sponsors, educators, and others on recruiting, placing, and retaining women in skilled trade apprenticeships.

The Bureau also carried the responsibility for coordinating Departmental activities relating to the consent decree in *Advocates for Women v. Marshall*, which requires the Department to take action to improve the participation of women in registered apprenticeship programs.

A related program focused on establishing apprenticeship programs for women incarcerated in Federal and State correctional institutions. The Women Offender Apprenticeship Program began several years ago with a Women's Bureau interagency effort coordinated with the Bureau of Apprenticeship and Training and the Federal Prisons System to establish apprenticeship programs for women in federal prisons. The success of this program led to development of a model, "The Women Offender Apprenticeship Program: From Inmate to Skilled Craft Worker," and an initiative to extend the program to State institutions.

The third stage of the Women Offenders project was

initiated in eight of the ten regions in fiscal 1981, focusing on the establishment of apprenticeship and nontraditional training for women offenders in State prisons. At least 18 State prisons housing women have either started apprenticeship programs or are in the process of developing them. Activities carried out by WB regional offices included staff development and training sessions for corrections personnel; orientation programs on nontraditional employment for women inmates; development of preapprenticeship programs; technical assistance in planning job development programs for women's prisons; designing resource centers within the prisons on nontraditional job information and materials; planning work-release programs in nontraditional trades; and planning support efforts for prison-sponsored nontraditional training programs.

The Bureau continued its coordination role on displaced homemaker programs, including monitoring a technical assistance contract awarded to the Displaced Homemaker Network with CETA title III funds. The purpose of the Network contract was to ensure that local community organizations operating demonstration projects received the necessary assistance to successfully provide essential services and to foster local displaced homemaker programs wherever the need existed. The Network provided assistance to all of the 37 funded programs at 54 sites in fiscal 1980-81, which served some 4,000 displaced homemakers.

Child care, often a key factor for single parents and dual-earner families, was another important concern. The focus for fiscal 1981 was on employer-provided child care. Staff worked closely with private sector organizations and employers, providing information about child care solutions already developed in the private sector and tax incentives for employer involvement. *Employers and Child Care: Establishing Services Through the Workplace* was issued to meet the demand for this information.

A major effort of the Bureau in fiscal 1981 was the legislative and economic analysis that went into *Time of Change: The 1981 Handbook on Women Workers*, which was completed at the end of the fiscal year. The *Handbook* includes comprehensive studies of the economic status of women workers, and reviews of issues and Federal and State laws and regulations that affect their employment and economic well-being. Other publications included *Women in Management*, *20 Facts on Women Workers*, and a series of charts illustrating the economic status of women workers. Staff also prepared a briefing paper on older women workers for the Secretary of Labor's Com-

mittee on Older Workers which met in November and December 1980.

The Women's Bureau had a lead role in the Department of Labor in carrying out the initiative to eliminate sex bias from Federal laws and regulations. This included coordinating the development of three seminars for Department of Labor regulation writers to strengthen their capability to write regulations free of sex bias in substance or in language, and participation in the Secretary's Task Force for Regulatory Reform. The Bureau also analyzed Federal and State labor laws that have an impact on women, family laws and the legal status of women, and made a preliminary study of actions that States have taken to reduce sex discrimination in State codes.

Outreach to Target Groups

Efforts to improve the economic status of women through increased access to training and jobs were carried out through special outreach to young, minority, and low-income women. With Employment and Training Administration monies, the Bureau selected and funded projects that demonstrated techniques and strategies for helping women with employment disadvantages to enter and remain in the labor force. Models were documented that can be used by CETA prime sponsors and private sector organizations to expose young women to a variety of work options; assist adolescent women get education, training, and job experience; and help minority women overcome economic and educational disadvantages that inhibit their ability to find adequately paid employment. Most of these projects were designed to incorporate the use of already existing employment and training, health, child care, and other supportive services to avoid duplication and to provide a coordinated package that would help meet work-related needs of the women in the program.

Another focus of outreach activities was working with local groups and agencies that deliver employment and training, education, counseling, or supportive services to improve the delivery of those services to women. This included training to sensitize service providers to the capabilities of women performing nontraditional work, and to their needs for jobs providing good income.

The Bureau continued throughout the year to provide leadership and staff support to the Interagency Task Force on American Indian Women, the Washington Union Women's Group, and the Women Offender Network. The regional offices fostered numerous networks and coalitions that brought together individuals with common interests to work on specific women's employment issues. They also provided assistance to local program operators to help them develop funding support from community,

foundation, and corporate resources.

A corporate board women's project was developed to encourage linking and mentoring relationships between managerial and professional women and women board members and to facilitate more opportunities to improve the potential for positive impact of women board members on advancement opportunity for other women workers. A study, "Profile Analysis of Corporate Board Women and Their Corporations," and a directory of women who serve on boards of major for-profit corporations were produced. The first of a series of five conferences with corporate board women was held in Chicago. Other activities associated with corporate board women and women in business included women-owned business conferences in Seattle and New York and a conference in Atlanta with business and industry on alternative work patterns.

International Activities

Women's Bureau staff members served as delegates to two major International Labor Organization (ILO) events in fiscal 1981. In January, a staff person was one of two government delegates participating in the Geneva meeting of the Advisory Committee on Salaried and Professional Workers, and was also a deputy member of the Working Party that drafted conclusions for the Subcommittee on the Problems of Women Nonmanual Workers dealing with the impact of technology and other issues affecting women clerical, retail sales, and professional workers.

In June, a second staff person chaired, for the second year, the United States Team on the Technical Committee "Equal Opportunity and Equal Treatment for Men and Women Workers with Family Responsibilities," at the 67th Session of the ILO in Geneva, Switzerland. The Committee considered work-related activities that would assist two-income and single parent families in managing their dual role more productively.

In addition the Bureau updated portions of the State Department Report to the United Nations on progress in the United States toward achieving the goals of the World Plan of Action, as defined in the 1975 International Women's Year Conference in Mexico City. The Bureau also provided publications and references to the Organization for Economic Cooperation and Development for the development of its report on the Education and Training of Women in anticipation of the late 1981 meeting of the Working Party on the Role of Women in the Economy.

During the year, Bureau staff briefed over 50 international visitors, including directors of women's bureaus and members of parliaments, on Women's Bureau functions and activities and on women's employment status and issues of concern to working women in the United States.

Office of Inspector General

During fiscal year 1981, the activities of the Office of Inspector General (OIG) resulted in several major audit and investigative accomplishments.

Our audit work during the period resulted in \$164 million in questioned costs and costs recommended for disallowance. We issued 426 audit reports covering about \$8 billion in contracts and grants. We also conducted 600 investigations related to program fraud, employee integrity, and complex white collar crime. Our investigations resulted in 94 indictments, 64 convictions, and 188 cases referred to other departmental agencies for administrative action. Fines, recoveries, collections, and savings totaled approximately \$9.4 million. Our Office of Organized Crime and Labor Racketeering opened 96 cases related to organized crime. The work of that unit resulted in 43 indictments of 93 individuals and 35 convictions.

In March 1981, the Department's unresolved audits had reached a high of \$303 million (794 reports), with the Employment and Training Administration accounting for about 97 percent of the audits. The failure to resolve these audits on time severely affected the potential impact of the audit process. Cooperation between the Inspector General, the Secretary, and the Assistant Secretary of the Employment and Training Administration led to a virtual elimination of the backlog of unresolved audits as of September 1981. Approximately \$103.8 million dollars of the audited monetary findings resolved was disallowed.

Comprehensive Employment and Training Act (CETA) programs continued to receive the bulk of OIG's attention during fiscal 1981. In CETA, our audit work resulted in \$161 million in audit exceptions. A significant number of OIG investigations focused on the question of eligibility of CETA participants and misappropriation of CETA funds.

Despite a major emphasis on CETA programs, the OIG devoted significant resources to reviews in other areas of the Department. An interagency project to review deficiencies in the claims management of the Federal Employees Compensation Act program in the Atlanta Region began in November 1980. We reviewed 1,810 claimants and identified inadequate efforts by OWCP to detect unreported income and insufficient efforts by employing agencies to meet FECA requirements. Thus far, our work has resulted in terminating or suspending benefits to 62 claimants for a projected savings of \$572,000 annually. In addition, 119 criminal investigations were initiated. The investigative success and results of the Atlanta project led to a national FECA claims project begun in August 1981.

Two reports on the Black Lung Benefits Program were completed. The first was an analysis of weaknesses in claim processing and payment procedures; the second, an assessment of historical and continuing resource loss from the automated payment process and an identification of weaknesses in the program's automated systems. A limited case file review was also completed and helped to verify findings in the previous studies and to identify specific case problems. As a result of the two studies, OIG identified \$36 million in Black Lung unrecovered overpayments and \$44 million in improper payments from 1973 to 1980.

Investigations into organized crime's influence in the labor-management field—specifically into schemes involving embezzlement, extortion, illegal payments, and kickbacks—have resulted in significant indictments, convictions, and sentences. The following are a few cases in point

- In Delaware, six persons were prosecuted for their involvement in a nationwide labor-leasing scheme that circumvented Teamster union contract requirements. The principal defendant was sentenced to 20 years imprisonment.
- An intensive 2-year—and still ongoing—joint investigation with other law enforcement authorities into the fresh seafood industry in the Fulton Fish Market in New York City resulted in four indictments, two of which brought convictions of the United Seafood Workers Union Local 359 and a businessman. One of the four indictments was on 167 counts of racketeering against three officials of the union and its associated welfare and pension plans and five businesspersons associated with various wholesale fish companies in the Market.
- A kickback scheme involving the union insurance business of the Laborers International Union of North America has resulted in the indictment on racketeering charges of 21 individuals, including Anthony Accardo, alleged Chicago syndicate boss; Santo Trafficante, alleged Tampa organized crime boss; Angelo Fosco, president of the union; Raymond L. S. Patriarca, alleged organized crime boss in New England; and Arthur E. Coia, Sr., secretary-treasurer of the union.

The OIG complaint center, established to handle complaints of fraud, waste, or abuse of Department of Labor resources and funds, received 1,505 calls of which 142 complaints merited further action or investigation. ETA personnel or programs accounted for 72 of these complaints; ESA, for 42. A total of 270 complaints, initiated before or during this fiscal year, were resolved and closed.

Employees' Compensation Appeals Board

The Employees' Compensation Appeal Board (ECAB) carried out its decisionmaking activities by closing 2,385 cases during the year. The Board has authority to make final decisions on appeals arising under the Federal Employees' Compensation Act involving work-connected injuries and diseases.

The Board began the 1981 fiscal year with 946 cases pending. During the year, 2,001 new appeals were docketed and 2,385 cases were closed, leaving 562 pending cases at the end of the year. Although the number of appeals docketed decreased by .04 percent from 1980, case closures increased approximately 41 percent, enabling the Board to reduce its backlog in 1981 to 562, a reduction of 68 percent.

Of the 562 pending cases, 248 were ready for Board decision. The balance were awaiting action by the parties,

such as the filing of a memorandum by the Office of Workers' Compensation Programs to justify its determination or a reply by appellant to the Office's memorandum.

The average time lapse between the docketing of an appeal and its disposition by the Board was 4.0 months in fiscal year 1981.

In fiscal year 1981, the Employees' Compensation Appeals Board docketed 2,001 new appeals and closed 2,385 cases. This productivity reflects an average increase of 39 percent in the number of appeals docketed for the period of 1978 through 1981 and, correspondingly, an average increase in case closures of 45 percent for the same time period. Average time lapse from initial docketing of a case to final disposition is 3.8 months.

Benefits Review Board

Fiscal year 1981 saw the full weight of caseload increases precipitated by the 1977 amendments to Federal Black Lung legislation finally reach the Benefits Review Board. Over 2,100 new Black Lung appeals were filed, a 170 percent increase over fiscal 1980 and a 1,900 percent increase over fiscal 1979. New Longshore appeals rose only slightly, by 13 percent, to 493. A total of 1,105 dispositions were issued; of these, 468 were Longshore and 637 were Black Lung cases. The number of dispositions represents an increase of 64 percent over fiscal 1980 and marks the first year in the history of the Board that a thousand dispositions or more were issued. The number of dispositions

issued during the year also represents a marked increase in the number of major decisions issued on new or novel areas of both Longshore and Black Lung law. Although the rate at which Board decisions were appealed to the U.S. courts of appeals increased to 21 percent, 96 percent of the courts of appeals decisions issued during the past year have either affirmed Board decisions or dismissed the case.

Early in July the Board's Chairman resigned; a successor was not officially named until late in September.

The Board's decisions are published and available to the public.

Information Activities

Many of the Labor Department's public information activities during the 1981 fiscal year were designed to support and assist the Cabinet agency's role in President Reagan's economic recovery program.

When the new Administration took office, the Department, under Secretary Donovan's direction, moved quickly to implement regulatory reforms, spending restraints, and other actions called for in the President's plan to combat inflation and to improve the Nation's economic health.

As major changes were made or proposed in Department regulations, policies, and programs, continuous efforts were made to keep workers, employers, and many other interested and affected groups informed.

The Secretary and other top officials used news briefings, news releases, speaking engagements, and media interviews to explain the substance and goals of a comprehensive review being conducted of existing and proposed worker-protection regulations, the Administration's revised spending plans for the Department in fiscal 1981, and broad new policy directions in such programs as occupational safety and health, equal employment opportunity and federal wage and hour law enforcement.

As specific regulations were delayed or rescinded, proposed for public comment or placed in effect, each new regulatory development generated wide media coverage and brought reaction and inquiries from affected individuals and groups.

The Administration's emphasis on its economic program kept media and public attention focused on the Department's regular issuances of labor and economic statistics, including figures on employment and unemployment, real earnings, industrial productivity, and producer and consumer prices.

When revised fiscal 1981 spending plans called for phasing out some 300,000 public service jobs funded under the Comprehensive Employment and Training Act, Assistant Secretary Albert Angrisani held a news briefing to describe the Administration's plans for assisting workers who would be laid off.

He later held a followup briefing to report on progress achieved in helping the former CETA employees obtain alternative jobs and training and to stress the Administration's continuing commitment to ease the impact of the layoffs on individuals and their communities.

National media coverage of Angrisani's announcements helped promote greater public understanding of the goals behind the public service employment phaseout and

other Administration initiatives in the employment and training field: namely, to move more workers currently on federally subsidized rolls into permanent private-sector employment, develop new training and employment opportunities in the private sector, and, simultaneously, trim Federal spending.

Public information activities were themselves a target of government cost-cutting measures during the year. When the Office of Management and Budget imposed a moratorium on Federal agencies' production of new pamphlets, periodicals, and audiovisual material, the Department's public information staff worked with agency officials to assure that the moratorium was properly implemented and developed an OMB-approved control system for producing and distributing the Department's printed and audiovisual materials in the future.

While economic revitalization led the Department's agenda for the year, other activities also called for media coordination and similar support from public information staff in Washington, D.C., and the field.

When Secretary Donovan led raids to crack down on garment industry sweatshops employing workers in violation of Federal wage and hour laws, news briefings were held to highlight the dimensions of the worker-exploitation problem and what the Department was doing to eliminate it. The Secretary's role in surprise investigations of sweatshops was publicized by media nationwide. Numerous followup stories appeared on sweatshop conditions, the Department's wage-hour enforcement program, and what government, labor, and management were cooperatively doing to clean up low-wage worker abuses.

National publicity has long been viewed as a potential deterrent to the spread of Federal law violations and an aid in promoting voluntary compliance. For this reason, the Department sought and obtained national media coverage of the January 1981 increase in the Federal minimum wage. The increase to \$3.35 an hour affected thousands of low-income workers and their employers and was the final increase mandated by 1974 Fair Labor Standards Act amendments.

Also attracting national attention during the year was Secretary Donovan's participation in baseball strike negotiations at the invitation of Kenneth Moffett of the Federal Mediation and Conciliation Service.

Regional public information offices used newspaper, radio and television announcements, posters, feature stories, and other tools to promote public awareness of and participation in a wide range of Department activities

affecting special groups or localities.

For example, the Department, under a court order, held local meetings across the country in 1981 to explain to migrant workers, farm labor contractors and agricultural employers their requirements and protections under the Farm Labor Contractor Registration Act.

As in past years, affected regions issued announcements and handled inquiries about a concentrated enforcement program aimed at protecting East Coast migrant workers from violations of wage and hour and farm labor contractor registration laws.

The Department similarly helped to publicize the formation and activities of intergovernmental task forces in the New York and Philadelphia regions assigned to help workers affected by major plant closings. A job fair for laid-off rubber workers was arranged and publicized by the Philadelphia regional information office and attracted more than 2,000 people.

Several regions conducted special outreach programs to provide pertinent Department information and assistance to such groups as high school counselors, State agency consumer affairs staff members and media serving consumers, Hispanic Americans, and mining communities with large numbers of black-lung benefit claimants.

The Department's field staff routinely handled announcements and inquiries for public hearings on rulemak-

ing matters and assisted the Women's Bureau in a variety of conferences it sponsored on employment issues affecting women.

Nationally, the Department continued its efforts to reach out to and broaden communications with the special groups it serves through weekly mailings of news packets tailored specifically for media serving blacks, Hispanic Americans, women, labor, and small-town residents. Special procedures were set up to inform small-business owners through their trade associations and publications of pertinent rulemaking activities affecting them on a semiannual basis as required by the Regulatory Flexibility Act of January 1981.

Continuing efforts were also made to improve the efficiency and effectiveness of the Department's communications program as a whole. On January 1, 1981, new audiovisual program guidelines went into effect that established better coordination and more uniform procedures for ensuring the quality and effectiveness of the Department's filmstrips, radio and television public service announcements, exhibits, and similar audiovisual materials.

The Department will continue seeking improvements in all of its public information activities to efficiently serve the millions of American workers who depend on this agency for help.

Appendix Tables

Appropriations and Other Obligational Authority

Federal funds	Fiscal year 1981 amounts
Employment and Training Administration, Program Administration	93,826,000
Employment and Training Assistance	7,142,973,000
Community Service for Older Americans	277,100,000
Temporary Employment Assistance	494,525,000
Federal Unemployment Benefits and Allowances	2,025,500,000
Grants to States for Unemployment Insurance and Employment Services	24,500,000
Advances to the Unemployment Trust Fund and Other Funds	2,389,346,000
Total, Employment and Training Administration	12,447,770,000
Labor-Management Services Administration	60,506,000
Employment Standards Administration	170,651,000
Special Benefits	319,269,000
Occupational Safety and Health Administration	209,376,000
Mine Safety and Health Administration	152,213,000
Bureau of Labor Statistics	111,081,000
Departmental Management	114,019,000
Special Foreign Currency	70,000
Proprietary Receipts	-7,000,000
Total, Federal funds	13,577,955,000
Trust funds	
Unemployment Trust Fund (ETA)	18,800,000,000
Black Lung Disability Trust Fund (ESA)	740,636,000
Special Workers Compensation (ESA)	14,100,000
Gifts and Benefits (ETA)	100,000
Total, Trust funds	19,554,836,000
Intrafund transaction	-2,740,700,000
Total, Department of Labor budget	30,392,091,000
Other funding:	
Funds appropriated to other agencies for programs administered by the Department of Labor: Department of Health and Human Services (Work Incentive Program)	365,000,000
Other Federal agencies (Federal Employees Compensation Act)	611,853,000
Total, other funds	976,853,000
Grand total, all funds	31,368,944,000

Number of Employees on Labor Department Rolls as of September 30, 1981

	Full-time employees			Other employees		
	Total	D.C.	Field	Total	D.C.	Field
All agencies	20,604	7,336	13,268	940	320	620
ETA	3,267	1,259	2,008	55	38	17
LMSA	1,117	546	571	55	19	36
ESA	4,531	938	3,593	135	48	87
OSHA	2,544	555	1,989	29	5	24
MSHA	3,379	250	3,129	105	37	68
BLS	1,997	1,434	563	377	37	340
OSEC	242	168	74	23	15	8
SOL	819	482	337	42	32	10
ILAB	205	161	44	11	11	—
OASAM	1,172	637	535	53	43	10
OIG	430	108	322	9	2	7
Other	465	363	102	29	17	12
PBGC	436	435	1	17	16	1

**Selected Employment Service Activities,
U.S. Total 1980, and by State, Fiscal Year 1981**

Fiscal year and State	New applica- tions ¹	Total counseling interviews	Test adminis- tered	Placements	
				In nonagri- cultural industries	In agri- cultural industries
1966	10,625,700	2,285,316	2,594,175	6,586,827	4,305,207
1967	10,773,823	2,399,120	2,277,114	6,142,153	4,112,938
1968	10,693,230	2,599,022	2,099,955	5,759,923	4,572,501
1969	9,962,834	2,503,928	1,783,298	5,524,269	4,864,495
1970	9,957,060	2,522,963	1,489,561	4,603,597	4,550,348
1971	9,740,415	2,388,563	1,198,423	3,596,832	3,263,541
1972	9,370,000	2,471,000	1,558,000	3,610,000	2,715,000
1973 ²	11,485,026	2,564,935	1,611,500	4,516,703	2,104,931
1974	11,905,444	2,021,731	1,345,169	4,913,391	1,758,096
1975	12,348,586	1,643,521	1,676,826	4,273,911	1,497,591
1976	15,437,453	1,981,961	1,326,289	6,157,528	760,790
1977	12,349,795	1,654,207	1,134,050	5,544,125	387,425
1978	12,103,933	1,717,860	1,180,521	6,247,714	384,571
1979	12,801,374	1,719,846	1,246,823	6,349,180	406,184
1980	13,727,655	1,767,814	1,232,979	5,609,984	380,213
1981	13,122,374	1,775,815	1,244,292	5,222,965	472,076
Alabama	304,564	43,541	57,201	85,715	885
Alaska	51,832	6,545	7,308	33,805	219
Arizona	231,968	22,041	5,699	71,978	4,657
Arkansas	191,475	25,025	14,334	98,210	2,103
California	1,202,172	85,250	27,687	406,724	37,904
Colorado	217,941	20,412	20,565	77,884	6,173
Connecticut	156,034	25,036	8,168	42,801	2,465
Delaware	28,415	4,012	2,826	7,812	1,088
District of Columbia	65,086	13,721	6,963	28,417	51
Florida	557,508	60,396	70,510	203,343	15,484
Georgia	360,542	77,094	23,247	126,258	11,721
Hawaii	62,170	5,923	1,659	20,892	1,085
Idaho	80,483	11,730	8,939	35,144	4,981
Illinois	540,986	106,226	22,660	170,390	4,623
Indiana	379,744	17,421	24,963	67,583	24,074
Iowa	223,357	14,345	29,353	133,864	9,397
Kansas	136,163	13,838	8,552	66,908	7,662
Kentucky	243,586	49,874	34,352	62,532	1,128
Louisiana	210,201	27,076	23,263	89,012	600
Maine	53,859	6,720	1,447	23,228	667
Maryland	172,232	25,277	10,116	28,572	1,065
Massachusetts	241,224	43,832	7,358	85,659	3,239
Michigan	632,777	76,934	30,421	104,155	17,334
Minnesota	256,569	25,855	22,721	85,633	27,286
Mississippi	218,243	63,939	40,761	87,555	1,305
Missouri	371,502	38,426	54,341	106,191	3,313
Montana	74,104	21,084	12,466	50,245	4,531
Nebraska	93,947	12,766	11,755	55,211	6,028
Nevada	75,701	6,860	7,439	38,879	1,408
New Hampshire	47,395	4,271	919	12,900	141
New Jersey	274,104	44,254	8,966	137,569	536
New Mexico	125,916	14,953	8,772	53,831	3,302
New York	522,465	126,587	91,146	695,457	6,881
North Carolina	396,195	81,254	75,796	120,996	68,626
North Dakota	43,538	8,693	10,621	39,942	3,154
Ohio	607,483	59,405	48,490	106,172	23,772
Oklahoma	232,483	34,301	36,702	160,921	18,947
Oregon	178,219	29,148	11,642	62,317	17,968
Pennsylvania	387,974	47,298	38,902	188,209	1,532
Puerto Rico	235,387	13,901	4,530	70,596	4,333
Rhode Island	55,063	14,227	2,820	26,587	219
South Carolina	215,503	26,514	50,536	100,799	20,176
South Dakota	48,064	11,965	9,474	40,632	2,115
Tennessee	263,007	36,355	23,964	102,502	3,686
Texas	929,178	98,486	121,803	447,967	48,056
Utah	112,960	25,610	23,053	72,661	5,547
Vermont	35,733	6,384	1,335	14,598	623
Virginia	257,573	34,729	37,624	67,739	5,123
Washington	239,516	25,683	13,215	80,923	32,850
West Virginia	147,482	26,604	4,823	30,909	569
Wisconsin	284,662	42,046	14,761	64,370	1,991
Wyoming	48,090	11,938	7,324	29,768	1,803

¹Reflects individuals.

²Excludes Washington State.

**Characteristics of Participants in Comprehensive
Employment and Training Act
Titles II BC, II D, and VI Projects
First Half Fiscal Year 1981
(Figures for October 1, 1980 through March 31, 1981)**

Characteristic	Title II BC	Title II D	Title VI
U.S. total: Number	709,900	329,500	175,500
Percent	100.0	100.0	100.0
Male	47.5	46.7	54.1
Female	52.5	53.3	45.9
Age:			
14-15	5.8	.2	0
16-19	27.2	12.6	11.3
20-21	12.7	13.0	12.9
22-44	47.8	62.8	63.7
45-54	4.2	6.9	7.2
55 and over	2.3	4.5	4.9
Education:			
School dropout	29.9	30.4	29.4
Student (H.S. or less)	17.7	1.7	.9
H.S. grad., no post-H.S.	39.4	47.0	44.9
Post-H.S. attendee	13.0	20.9	24.8
On public assistance:			
AFDC	20.5	21.4	15.2
SSI	3.8	3.8	2.7
Economically disadvantaged	98.6	99.1	90.9
Ethnic group:			
White	54.1	53.4	50.1
Black	29.6	34.3	32.6
Hispanic	11.7	9.1	14.7
Amer. Indian or Alaskan Native	1.4	1.5	1.1
Asian or Pacific Islander	3.3	1.7	1.4
Limited English-speaking ability	5.6	3.0	4.3
Migrants or seasonal farm workers	.9	.8	.9
Veteran group:			
Veteran	8.0	12.0	14.4
Vietnam-era ¹	3.4	4.7	5.5
Special disabled	.5	.6	.6
Handicapped	9.8	7.1	5.2
Offender	9.0	7.5	6.5
Displaced homemaker	5.1	5.8	3.8
In school	17.4	1.8	.9
Labor force status:			
Underemployed	3.4	.8	1.5
Unemployed	77.3	87.7	89.3
Other	19.3	11.5	9.2
Unemployment Compensation Claimant	6.5	9.2	10.9
TJTC ² eligible	6.1	3.6	2.9

¹Served between August 5, 1964 and May 7, 1975 and are under age 35.

²Targeted Job Tax Credit.

**Benefit Data Under State Unemployment Insurance Programs, U.S. Total, 1971-81,
and by State for 12 Months Ending June 30, 1981**

	Average weekly insured unemployed					Average weekly benefit amount		Average duration (in weeks) all beneficiaries		Claimant exhaustion benefits			
	Initial claims	Number	Percent of covered employment	Total number of beneficiaries	Average weekly beneficiaries	Average weekly wage in covered employment	Amount	Percent of	Potential	Actual	Actual for exhaustees	Number	Percent of all beneficiaries
								average weekly (total) wages					
1971	15,691,866	2,124,865	4.0	6,675,515	1,808,926	\$144.90	\$ 52.30	36.1	24.5	14.1	22.5	1,797,061	28.0
1972	14,800,165	2,029,185	3.8	6,117,016	1,690,762	149.04	55.36	37.1	24.4	14.5	22.8	1,975,349	30.2
1973	12,698,893	1,680,479	3.0	5,389,411	1,414,998	158.39	58.23	36.8	24.4	13.7	22.6	1,601,394	28.1
1974	14,784,734	1,879,299	3.0	6,222,242	1,577,172	168.67	61.46	36.4	24.4	13.2	22.3	1,600,224	30.0
1975	24,651,329	3,425,088	5.2	11,088,671	2,901,804	182.40	67.92	37.2	24.3	13.6	22.1	2,950,016	38.2
1976	20,803,817	3,317,817	5.0	8,640,723	2,739,151	188.96	73.66	39.0	24.1	16.5	22.8	4,058,873	36.4
1977	20,075,532	2,427,135	3.6	8,340,614	2,267,060	209.43	77.83	37.2	24.2	14.1	22.1	3,047,228	35.6
1978	18,547,470	2,476,580	3.5	7,574,201	2,020,211	223.58	81.52	36.5	24.3	13.9	22.2	2,415,831	30.3
1979	18,503,801	2,328,499	3.0	7,618,446	1,932,605	238.89	86.42	36.2	24.4	13.2	22.2	1,952,931	25.8
1980	23,587,690	2,835,055	3.3	9,254,422	2,398,963	249.49	95.54	38.3	22.4	13.5	21.8	2,351,002	29.1
1981	23,267,530	3,251,249	3.7	9,214,473	2,779,427	283.47	101.94	36.0	21.2	15.7	19.8	3,333,219	33.4
Alabama	469,851	56,147	4.4	197,643	47,621	250.18	77.17	30.8	23.4	12.5	21.9	61,411	29.2
Alaska	68,687	10,957	7.4	33,437	10,815	469.65	112.15	23.9	23.1	16.8	24.4	11,916	36.9
Arizona	181,540	24,393	2.5	67,956	17,933	274.19	85.12	31.0	19.7	13.7	16.8	20,754	29.0
Arkansas	284,824	33,830	4.7	104,488	26,611	232.18	91.32	39.3	22.4	13.2	21.2	33,354	28.3
California	2,762,187	377,892	3.9	1,035,472	328,565	305.24	89.10	29.2	18.9	16.5	17.7	361,568	33.9
Colorado	177,413	24,990	2.1	76,940	17,659	289.76	116.33	40.1	16.4	11.9	15.9	27,725	36.0
Connecticut	301,554	17,168	2.7	132,800	33,109	299.49	108.08	36.1	26.0	13.0	19.5	24,146	17.4
Delaware	77,001	8,521	3.4	28,865	8,577	302.17	110.04	36.4	25.2	15.5	25.0	7,371	23.5
District of Columbia	36,141	10,313	2.7	25,751	10,760	332.19	126.68	38.1	28.4	21.7	28.1	11,557	43.6
Florida	382,883	62,245	1.8	178,759	43,360	250.39	76.91	30.7	16.3	12.6	13.2	69,452	37.6
Georgia	591,639	50,126	2.5	231,561	45,271	255.88	78.71	30.8	16.7	10.2	14.4	72,130	29.1
Guam	—	—	—	—	—	—	—	—	—	—	—	—	—
Hawaii	74,592	10,950	2.9	38,429	9,825	256.67	111.52	43.4	26.0	13.3	26.0	8,207	25.0
Idaho	119,901	14,724	4.8	44,376	11,130	255.67	100.66	39.4	15.0	13.0	14.3	15,962	31.8
Illinois	1,037,867	212,961	4.7	515,688	198,778	312.65	118.69	38.0	20.0	20.0	20.3	275,987	49.7
Indiana	616,329	77,840	3.8	237,908	65,824	284.92	88.98	31.2	20.9	14.4	20.0	112,308	37.8
Iowa	240,259	34,710	3.2	125,945	32,159	259.76	119.80	46.1	17.1	13.3	16.9	40,929	28.9
Kansas	136,793	23,447	2.6	77,090	21,930	260.17	100.21	38.5	18.2	14.8	16.6	29,383	33.4
Kentucky	408,311	58,020	5.1	157,299	50,799	263.98	103.43	39.2	18.2	16.8	16.9	69,700	37.7
Louisiana	268,004	40,131	2.7	120,740	38,189	289.62	114.13	39.4	24.3	16.4	21.8	44,713	33.2
Maine	190,118	17,357	4.4	69,190	14,506	228.51	90.07	39.4	15.7	10.9	14.9	17,463	24.1
Maryland	314,935	49,157	3.3	138,048	40,220	266.94	96.05	36.0	26.0	15.2	21.3	41,994	28.1
Massachusetts	573,900	82,116	3.3	241,691	70,931	273.23	100.68	36.8	26.9	15.3	25.4	65,845	26.7
Michigan	1,507,201	231,389	6.9	551,129	182,656	314.85	107.22	32.0	23.0	17.2	15.8	293,140	45.1
Minnesota	289,631	50,730	3.0	147,524	46,309	275.39	122.00	44.3	23.2	16.3	21.1	62,581	39.5
Mississippi	239,557	32,026	4.1	91,419	24,697	224.62	70.31	31.3	23.5	14.0	22.4	27,442	27.5
Missouri	609,630	76,506	4.1	223,090	60,215	271.95	90.93	33.4	17.5	14.0	15.4	92,204	37.7
Montana	70,385	10,713	4.3	31,833	8,449	251.75	105.27	41.8	20.7	13.8	15.3	13,094	36.3
Nebraska	77,186	11,654	2.0	41,347	10,012	241.02	93.86	38.9	16.2	12.6	12.0	14,773	33.3
Nevada	102,161	13,450	3.5	45,534	12,110	283.96	102.84	36.2	23.4	13.8	22.8	13,219	29.2
New Hampshire	75,689	8,210	2.2	41,321	7,239	240.07	84.36	35.1	25.4	9.1	25.6	3,683	8.2
New Jersey	777,630	132,482	4.5	417,246	127,725	300.51	103.61	34.5	23.3	15.9	22.0	165,191	38.9
New Mexico	77,912	11,999	2.9	29,229	9,097	258.23	85.45	33.1	25.8	16.2	25.2	10,310	34.4
New York	1,597,180	249,477	3.6	562,652	219,998	313.22	94.16	30.1	19.2	20.3	26.0	210,862	34.5
North Carolina	989,278	70,710	3.1	293,639	58,838	237.71	89.18	37.5	23.7	10.4	16.8	59,226	19.5
North Dakota	42,702	7,256	3.3	21,974	6,396	244.93	111.56	45.5	16.3	15.1	14.8	9,403	39.0
Ohio	1,240,828	194,132	4.6	483,528	161,723	297.82	125.72	42.2	25.6	17.4	25.4	198,051	35.6
Oklahoma	135,602	16,390	1.6	53,460	12,233	277.57	105.00	37.8	15.9	11.9	14.0	18,543	31.6
Oregon	413,018	54,257	5.4	155,728	44,386	278.15	102.09	36.7	25.5	14.8	25.4	42,057	25.8
Pennsylvania	1,694,192	218,912	4.8	566,005	202,958	283.84	121.12	42.7	23.4	18.7	22.6	177,322	26.1
Puerto Rico	304,816	53,430	7.2	73,798	29,560	163.45	56.93	34.8	20.0	20.8	20.0	28,213	40.9
Rhode Island	166,426	19,710	5.0	62,595	17,295	245.12	91.21	37.2	23.1	14.4	20.6	20,362	30.1
South Carolina	522,167	42,373	3.8	167,954	34,498	235.30	83.93	35.7	20.2	10.7	16.8	39,324	23.0
South Dakota	32,326	4,606	2.1	14,362	3,540	216.61	101.69	46.9	17.0	12.8	16.0	3,607	22.0
Tennessee	609,592	68,635	4.1	208,183	58,600	248.28	80.23	32.3	19.7	14.6	16.8	63,753	27.9
Texas	513,759	78,852	1.4	240,735	61,924	291.84	91.93	31.5	16.6	13.4	14.1	101,712	39.8
Utah	93,653	15,494	3.2	45,786	13,543	268.53	109.79	40.9	25.4	15.4	20.9	15,020	31.5
Vermont	55,615	7,870	4.2	24,747	6,870	232.72	93.45	40.2	26.0	14.4	15.2	5,733	21.3
Virginia	391,887	38,684	2.0	148,318	35,278	253.42	96.63	38.1	17.4	12.4	16.6	44,035	30.3
Virgin Islands	6,042	1,230	3.5	4,136	1,392	227.86	67.66	29.7	26.0	17.5	26.0	1,471	39.6
Washington	526,548	72,962	4.8	196,317	61,682	312.48	114.54	36.7	20.7	16.3	19.3	54,420	26.5
West Virginia	189,126	38,726	6.3	113,776	32,144	283.41	110.13	38.9	28.0	14.7	26.6	30,932	25.7
Wisconsin	574,453	96,952	5.2	263,885	80,419	268.54	120.76	45.0	24.2	15.8	24.7	86,455	29.5
Wyoming	26,609	3,238	1.7	13,147	3,065	314.54	116.17	36.9	14.8	12.1	18.1	3,206	26.8

END

8-26-82